

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.950 of 2019

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Fahmida Parveen Wife of Md Mumtaj Alam Resident of Village- Reganiya,
P.O.- Jhari, P.S.- Amas, District- Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through the Principal Secretary, Human Resources Development Department, Primary Education, Government of Bihar, Patna
2. The State Appellate Authority, Education Department, Bihar, S.C.D. Niyojan Bhawan, Baily Road, Patna-1
3. The Collector, Gaya
4. The Block Development Officer, Bankey Bazar, Gaya
5. The Block Education Officer, Bankey Bazar, Gaya
6. The District Programme Officer (Establishment), Gaya
7. The Mukhia, Gram Panchayat, Barheta, Bankey Bazar Block, District- Gaya
8. The Panchayat Secretary, Gram Panchayat, Barheta, Bankey Bazar Block, District- Gaya
9. The District Teacher Niyojan Appellate Authority, Gaya
10. Shama Parveen Wife of Md Mustaque, D/o Md Mohiddin Ansari Resident of Village- Chak Bandha, P.S.- Imamganj, District- Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Md. Javed Jafar Khan, Adv.
For the Respondent No. 10	: Mr. Kamlesh Kumar Pathak, Adv.
For the State	: Mr. Mukund Mohan Jha, AC to GP 27

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 4 07-02-2023 1. The petitioner by way of this writ petition challenges the order passed by the State Appellate Authority.
2. Learned counsel for the petitioner submits that the petitioner, Fahmida Parveen higher merit than the respondent Shama Parveen and she should have been appointed on the post. The District Appellate Authority had passed an order in her



favor but the State Appellate Authority had wrongly and illegally held otherwise.

3. I have considered the submission and finds that the State Appellate Authority has reached to a factual finding based on a report of team of officers constituted by D.M. Gaya who recorded statements of all the persons who participated in the counseling held on 28th February, 2009. The other participants stated that Shama Parveen appeared in the counseling while the petitioner, Fahmida Parveen did not appear in the counseling and therefore, her name did not find place in the counseling. The State Appellate Authority has also noticed that the petitioner did not challenge the result of the counseling before the local authorities or before the Block Education Officer. It also reached to the conclusion that the order passed by the District Appellate Authority was based on surmises and presumptions holding that mere suspicion on the genuineness of page no. 41 of the counseling register, presumption cannot be drawn that there was another page where the name of the petitioner was available. Such a far-fetched presumption has rightly being set aside by the State Appellate Authority as it does not have any basis. The State Appellate Authority also found that the respondent has been working since 2010 without any objections.



4. Keeping in view aforesaid, this Court is satisfied that factual finding arrived at by the State Appellate Authority are neither perverse nor vitiated in law. No interference is therefore warranted to the order passed by the State Appellate Authority, the same is accordingly upheld.

5. The writ petition is devoid of merits and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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