

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.109 of 2022
In
Civil Writ Jurisdiction Case No.19337 of 2019

Md. Sarfaraz Alam, Son of Md. Iftekhhar Ahmed, Resident of Village-
Imansarai, Police Station- Patori, District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources and Development, Government of Bihar, Patna.
2. The Director, Primary and Adult Education, Bihar, Patna.
3. The State Appellate Authority, Patna through the Chairman (J).
4. The District Magistrate, Samastipur.
5. The Block Development Officer, Patori, District- Samatipur.
6. The Block Education Officer, Patori, District- Samastipur.
7. The Mukhiya, Gram Panchayat, Chak Salem, District- Samastipur.
8. The Panchayat Secretary, Gram Panchayat, Chak Salem, District- Samastipur.
9. Md. Mumtaz Ahmad, Son of Md. Ismail, Resident of Village- Shahpur Undi, P.S. - Patori, District- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Mahasweta Chatterjee, Advocate
For the Respondent/s : Mr. Ajay Kr. Rastogi (AAG 10)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 06-04-2023

We have heard Ms. Mahasweta Chatterjee, learned
counsel for the appellant and the learned counsel representing



the State.

2. The challenge in the present Letters Patent Appeal is to an order/judgment of the learned Single Judge dated 31.01.2022 passed in C.W.J.C. No. 19337 of 2019 whereby the claim of the writ petitioner/appellant for his appointment to the post of Urdu Teacher in the Primary School Maktab, Habaspur within Chalk Salem village Panchayat (hereinafter referred to as 'the School') has been turned down by affirming the order of the State Appellate Authority.

3. The grievance of the appellant is that he despite being Moulvi, which is equivalent to Intermediate examination, was not selected for the post of Urdu Teacher in the School and on the contrary the private respondent no.9, who is Intermediate with 50 marks in Urdu, has been selected.

4. It is vehemently submitted that the appointment of respondent no.9 is in defiance of the letters issued by the District Superintendent of Education and the Public Information Officer of the Department of Primary Education, who clarified that the eligibility for being appointed as Urdu teacher, a candidate must have passed the subject of Urdu at the Intermediate level, the paper of which should be a minimum of 200 marks and not less. Since the private respondent passed the



Intermediate examination with Urdu for only 50 marks, in no circumstance his case could have been considered for appointment to the post of Urdu teacher.

5. What is culled out from the record, it is evident that the respondent no.9 had passed the Intermediate examination in which one of the compulsory subject was Urdu, carrying total 100 marks. On being found eligible, he applied for his appointment as Urdu teacher and after having completed the selection process he was appointed as Urdu teacher way back in the year 2007. The appellant on being dissatisfied by the appointment of respondent no.9, questioned the selection/appointment of the appellant before the District Teachers' Employment Appellate Authority, Samastipur (hereinafter referred to as 'the District Appellate Authority') and his appointment was set aside by taking note of the letters issued by the authorities of the department of Primary Education. The respondent no.9 assailed the aforementioned order of the District Appellate Authority before the State Appellate Authority. The State Appellate Authority having considered the controversy in the appeal with regard to educational qualification for appointment as Urdu Panchayat Teacher sought a clarification. In response thereto, the Director, Primary Education clarifies,



indicating that for appointment of Urdu Teacher only Moulvi or Intermediate degree with Urdu subject is mandatory and no higher marks has been prescribed. Taking note of the aforesaid clarification, the State Appellate Authority set aside the order of the District Appellate Authority and allowed the appeal.

6. Rule 6 of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 clearly provides that for appointment to the post of Urdu teacher, the candidate must have Urdu, as one of the subject in Intermediate or Moulvi.

7. The learned Single Judge while negating the claim of the petitioner/appellant has rightly taken note of the judgment passed by a coordinate Bench of this Court dated 31.03.2015 in L.P.A. No. 1369 of 2012 wherein the learned coordinate Bench in a different challenge make upheld the appointment of a similarly placed candidate. This Court further observed that once the rule is specific with regard to the eligibility for being appointed as an Urdu teacher in an elementary school, the officers of the department has no authority to interpret the same in any other manner or add something more or less, thereby defeating the very import and object of the statutory rule framed under Article 309 of the Constitution.



8. In view of the discussions made hereinabove this Court does not find any error in the impugned judgment passed by the learned Single Judge.

9. Accordingly, the present Letters Patent Appeal, sans any merit, stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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