

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6081 of 2019

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Awadh Narayan Bhagat @ Awadh Narayan Kushwaha Son of Shiv Nath
Bhagat Resident of Village and P.O.-Champapur, Block and P.S.-Ramgarhwa,
District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary Education Department,
Govt. of Bihar.
2. The District Collector, East Champaran.
3. The District Education Officer, East Champaran.
4. The District Programme Officer (Establishment), East Champaran.
5. The Block Development Officer, Ramgarhwa, East Champaran.
6. The Block Education Officer Ramgarhwa, East Champaran.
7. The Panchayat Secretary Grampanchayat Champapur Block-Ramgarhwa,
District-East Champaran.
8. Faiyaz Ahmed Son of Zahir Ahmed Resident of Village-Champapur, P.S.-
Ramgarhwa, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhanesh Shankar Vidyarthi
For the Respondent/s : Smt. Binita Singh (Sc28)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 05-12-2023

1. The petitioner has filed the present writ application for quashing the order dated 06.08.2018 passed by learned State Appellate Authority, Patna in Appeal No. 43 of 2018 which was modified vide order dated 12.09.2018 whereby the appeal preferred by the petitioner was dismissed. The petitioner has also prayed for quashing of the order dated 25.09.2013 passed by District Teacher's Employment Appellate Authority, East Champaran in Case No. 378 of 2008. The petitioner is seeking



further direction to appoint him on the post of Panchayat Teacher under BC Category in Gram Panchayat Champapur after setting aside the appointment of the respondent no. 8, who was appointed as a Teacher in the 2nd phase of Teachers appointment held in 2008.

2. The brief facts involved in the present case is that in the year 2008 in the 2nd phase of teachers appointment total 18 posts of Panchayat Teachers were advertised in the Gram Panchayat-Champapur, Block- Ramgarhwa, District- East Champaran. Out of 18 posts, 12 posts were for Urdu Teachers and 6 posts were for General Teachers, 9 posts were reserved for female candidates belonging to different categories and out of the rest 9 posts, 4 posts were for unreserved category, 1 post was earmarked for BC category, 2 posts for EBC category and 1 post each was reserved for SC and ST category. Later on due to unavailability of Urdu students in the concerned Panchayat, 6 posts of Urdu Teachers were changed to General Teachers. As per new roster, 12 posts for General Teacher and 6 posts for Urdu Teacher were notified and later on 2 more posts were allotted, out of which 1 post was earmarked for Urdu Teacher. It is pointed out that roster no. 7546 earmarked for BC category was declared Urdu post. Thus, out of total 20 posts, 13 posts



were earmarked for general teacher and 7 posts were earmarked for Urdu Teachers. The claim of the petitioner that he belonging to BC category submitted his application for General Teacher post vide receipt no. 1959 dated 14.11.2008 (Annexure -1) . The date of counselling was fixed on 27.01.2009 but counselling was not conducted on the aforesaid date. In several gram panchayats situated in the state counselling was also not held on schedule date i.e. 27.01.2009. Thereafter, new schedule of selection process / counselling was fixed by the State Government and the same was published in the news paper dated 15.02.2009 (Annexure -2) by which counselling was fixed to be held on 28.02.2009.

3. Learned counsel for the petitioner submits that call letter for counselling was not sent to the petitioner. On 28.02.2009 petitioner along with other candidates appeared at the Panchayat Bhawan, Champapur but on the said date counselling was not conducted. Annexure- 7 is the list of candidates selected by the employment committee and from perusal of the same it appears that total 6 posts were notified for Urdu Teachers but appointment was made on 7 posts in Urdu category. The respondent no. 8 was appointed against BC category as Urdu Teacher, who is having lesser marks than the



petitioner. The petitioner next submits that the learned State Appellate Authority while passing the impugned order did not consider the fact that 6 posts reserved for Urdu Teacher were already filled up and the respondent no. 8 was illegally appointed as Panchayat Teacher reserved for BC category showing his appointment on the post of Urdu Teacher. The petitioner belongs to BC category and has more marks than the respondent no. 8 who was illegally appointed on the said post for which the petitioner is fully entitled to be appointed.

4. Learned counsel for the respondent no. 8 as well as State argued that counselling was held on 28.02.2009 in which the respondent no. 8 appeared however petitioner did not appear in the counselling as is evident from the counselling register in which 77 candidates in total appeared on 28.02.2009.

5. The respondent no. 8 has been appointed against Urdu Teacher post under BC category and the petitioner being a candidate for General Teacher post under BC category is not even eligible for appointment on the said Urdu post. The qualification required for appointment as Urdu teacher is “Moulvi” but the petitioner has no qualification of “Moulvi”. Due to strike of Panchayat Secretaries in the entire district, date of counselling was postponed and rescheduled on 28.02.2009



and counselling was held on the said date i.e. 28.02.2009 in which respondent no. 8 appeared but the petitioner failed to appear. In respect of the contention that counselling was not held on 28.02.2009, an enquiry was conducted and the enquiry report dated 03.06.2010 found that counselling was held on 28.02.2009 in accordance with the prescribed procedures. The selection committee held its meeting on 13.08.2010 and appointment letters were issued in favour of the selected candidates. The respondent no. 8 having the highest marks in his category of candidates was rightly appointed.

6. The District Appellate Authority dismissed the appeal filed by the petitioner and arrived at the finding that counselling was held on 28.02.2009 and the petitioner was not present on the date of counselling.

7. I have heard learned counsel for the parties and have gone through the materials available on record. The District Appellate Authority in its order has taken note that respondent no. 8 was appointed as per roster no. 7546 against the BC category, which was meant for Urdu teacher. The petitioner was a candidate in BC category for General Teacher post and counselling was conducted on 28.02.2009 wherein the petitioner did not participate. In the said counselling held on 28.02.2009 in



the concerned Gram Panchayat 77 candidates in total participated.

8. From the facts available on record it appears that vacancies were revisited and out of 20 posts, 13 posts were earmarked for General Teacher and 7 posts were earmarked for Urdu Teachers. The respondent no. 8 was appointed as Urdu Teacher is not disputed by both the Appellate Authorities.

9. The District Appellate Authority in its order has arrived at a finding that roster no. 7546 relates to BC category, which was for Urdu Teacher and the respondent no. 8 was appointed as Urdu Teacher as per roster no. 7546. Thus, the contention of the petitioner that only 6 posts were reserved for Urdu Teacher appears to be preposterous and not sustainable. In fact, 7 posts of Urdu Teachers were there.

10. The State Appellate Authority has arrived at the finding that counselling was held on 28.02.2009 and the petitioner did not appear in that and the respondent no. 8 has wrongly been made party- respondent inasmuch as the petitioner / appellant was indisputably not competing for the post of Urdu Teacher (BC category).

11. Having considered the aforesaid discussions, the materials available on record and the findings arrived at by both



the Appellate Authorities that counselling was held on 28.02.2009 and the petitioner was not competing for the post of Urdu Teacher and failed to appear in the counselling on 28.02.2009, as such, I do not find any infirmity in the orders passed by the appellate authorities.

12. The writ application is dismissed.

(Anil Kumar Sinha, J)

Praful/- AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	10-01-2024
Transmission Date	NA

