

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7196 of 2019

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Kaushalaya Devi Wife of Ram Krishna Das Resident of Village-Hariya, P.O.
Rauta, P.S. Rauta, District-Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar the Principal Secretary, Education Department, Bihar, Patna.
2. The Director, Primary Education, Education Department, Bihar, Patna.
3. The District Magistrate, Purnea.
4. The District Education Officer, Purnea.
5. The District Programme Officer, education Department, Establishment, Purnea.
6. The Block Education Officer, Block Vaisa, P.O. and P.S. Rauta, District-Purnea.
7. The Chairperson, State Appellate Authority, Education Department, Bihar, Patna.
8. The Presiding Officer, The District Teacher Employment Appellate Authority, Purnea.
9. The Mukhiya, Gram Panchayat Raj Rayber, P.O. and P.S. Rauta, District-Purnea.
10. The Panchayat Sachiv, Gram Pachayat Raj Rayber, P.O. and P.S. Rauta, District-Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate
	:	Mr. Anil Kumar Aul, Advocate
	:	Mr. Binod Kumar Sinha, Advocate
For the Respondent/s	:	Mr.Subash Chandra Mishra (SC16)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 05-12-2023

1. Heard learned Senior counsel for the petitioner and learned counsel for the State.

2. The present writ application has been filed being aggrieved by the order dated 15.01.2019, passed by the State Appellate Authority, by which the appeal filed by the petitioner



has been dismissed and the order passed by the District Appellate Authority, Purnea has been affirmed.

3. The brief facts of the case are that the petitioner was employed as Panchayat Teacher under Block Panchayat- Hariya, District-Purnea on 29.04.2007 and at the time appointment, she was having Madhyama certificate i.e. equivalent to Matriculation. Being a Scheduled Castes candidate, she was employed on the basis of Madhyama certificate under the provisions of ***Rule 4(iii) of Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rule, 2006 (hereinafter referred to as “the Rule, 2006”)***. The said Rule provides that if no candidate belonging to Scheduled Castes category having intermediate qualification is available, the candidate with Matriculation or equivalent qualification can be employed as Panchayat Teacher but such candidate will have to acquire the prescribed Intermediate qualification within a period of 06 years.

4. Learned Senior counsel for the petitioner submits that due to ill health of the petitioner, she could not pass the intermediate examination during the period prescribed under the Rules. Learned counsel further submits that it is not disputed that petitioner resigned from the post of Panchayat Teacher on 08.07.2015, which was accepted by the respondents on 15.07.2015. He next submits that an application for withdrawal of



resignation was filed on 13.07.2015, before its acceptance but this fact was not considered and the District Appellate Authority, Purnea has dismissed the appeal filed by the petitioner, which has been confirmed by the State Appellate Authority.

5. Learned counsel for the State submits that since the petitioner did not pass intermediate examination within a period of 06 years, as stipulated under the Statute, in that event, withdrawal of her resignation prior to acceptance by the respondents is inconsequential, inasmuch as the petitioner cannot be reinstated on the said post.

6. I have heard learned counsel for the parties and perused the materials on record. **Rule 4(iii) of the Rule, 2006** prescribes the minimum educational qualification for appointment on the post of Teacher as Intermediate, however exception has been created for Scheduled Castes category and Rule says that if Scheduled Castes candidate is not available with Intermediate certificate and any candidate having Matriculation certificate or equivalent is available, then such candidate can be appointed on the basis of Matriculation or equivalent certificate, subject to the condition that appointee under Scheduled Castes category has to acquire the Intermediate certificate within a period of 06 years. The Rule does not contemplate any relaxation with regard to the period of 06 years. The personal difficulty cannot be considered



for giving relaxation for completion of intermediate qualification within the stipulated time period of 06 years. Admittedly, the petitioner has not completed the required qualification as per the Rule within the prescribed time limit.

7. In view of the aforesaid position, I am of the opinion that due to lack of qualification, the petitioner cannot be re-taken into service even if petitioner’s contention is accepted, that acceptance of her resignation after withdrawal was not valid. As such, I do not find any infirmity in the order passed by the State Appellate Authority confirming the order of District Appellate Authority, Purnea, accordingly, the present writ application stands dismissed.

(Anil Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.12.2023
Transmission Date	NA

