

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13907 of 2015

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Sri Randhir Sharma, son of Sri Gupteshwar Sharma, R/o village - Charkupa,
P.O. - Gordiha, P.S. - Rafiganj, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education Officer, Gaya.
4. The Block Development Officer, Paraiya, Gaya.
5. The Block Education Officer, Paraiya, Gaya.
6. The Employment Unit, Block Paraiya through its Secretary, the Block Development Officer, Paraiya, District Gaya
7. The Selection Committee through its Chairman Pramukh Panchayat Samiti, Paraiya, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar
Ms. Ritika Rani
For the Respondent/s : Mr. Manoj Kumaar, AC to GP 4

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

ORAL

Date : 20-04-2023

The petitioner has filed the present writ application for a direction to the respondents to issue appointment letter in his favour for the post of Block Physical Teacher and also to grant all consequential benefits.

2. During the pendency of this writ application. I. A. No. 01 of 2023 was filed by the petitioner for amending the prayer in the main writ application inasmuch as the petitioner has prayed



for quashing of the Office Order, vide Memo No. 760, dated 21.07.2015, issued under the signature of the Block Development Officer -cum- Secretary, Block Employment Unit, Paraiya Block, Gaya, stating therein that the name of the petitioner was not included in the merit list on the ground that the petitioner was not fulfilling the eligibility criteria of having two-years Physical Training Certificate (C.P.Ed.).

3. Considering the nature of prayer made in I. A. No. 01 of 2023, the same is allowed.

4. The petitioner claims to have the qualification of M. A. and D. P. Ed. and also claims that he has completed the C. P. Ed. Course in the year 1990, from H. V. P. M., Amravati, Maharashtra.

5. It is not in dispute that the petitioner has Physical Education Certificate of one-year, issued by H. V. P. M., Amravati, Maharashtra. He applied for appointment on the post of Block Physical Teacher in the year 2008 and in the provisional merit list of Block Physical Teacher, his name was placed at serial number 70, but he was neither called for counselling by the Block Employment Unit nor his name finds place in the final merit list.

6. A challenge was made by the petitioner before the District Teachers Appellate Authority, Gaya, in Appeal No. 63 of



2010, but the said appeal of the petitioner was rejected by the District Teachers Appellate Authority, by order, dated 30.07.2010, on the ground that the petitioner is not having requisite Physical Education Certificate of two-years, as per Rule 8 (3) of the Bihar Panchayat Primary Teacher (Appointment and Service Condition) Rules, 2006 (herein after referred to as the '2006 Rules').

7. Aggrieved by the order, dated 30.07.2010, passed by the District Teachers Appellate Authority, Gaya, the petitioner filed a writ application before this Court, bearing CWJC No. 19906 of 2010, where the petitioner proposes to represent before the Director, Primary Education, Government of Bihar, Patna, and, accordingly, the writ application was disposed, vide order, dated 01.08.2013, permitting the petitioner to file a representation before the concerned authority, with a direction to dispose the same by a reasoned order.

8. The Director, Primary Education, Government of Bihar, Patna, vide its order, dated 06.11.2014, directed the District Education Officer, Gaya, to issue necessary direction to the concerned Block Education Officer, Paraiya/Employment Unit for considering the claim of the petitioner for appointment as Block Physical Teacher.



9. The Employment Unit of Paraiya Block considered the claim of the petitioner and came to the conclusion that the petitioner is not fulfilling the requisite eligibility criteria of having two-years Certificate in Physical Education (C.P.Ed.), as prescribed under Rule 8 (3) of the 2006 Rules. Accordingly, the Block Development Officer -cum- Secretary, Employment Unit, Paraiya Block, vide its letter, dated 21.07.2015 (Annexure 15 to I. A. No. 01 of 2023), communicated the decision of the Employment Unit to the District Education Officer, Gaya. From perusal of the said letter, it appears that 2006 Rules prescribes the requirement of having two-years Certificate in Physical Education (C.P.Ed.) and the same criteria was also there prior to coming into force of the National Council for Teacher Education Act, 1993. The petitioner has claimed to have one-year Diploma Certificate prior to coming into force of the National Council for Teacher Education Act, 1993.

10. Learned Counsel for the petitioner submits that the petitioner has one-year Certificate in Physical Education (C.P.Ed.), issued from a recognized institution at Maharashtra and was eligible to be appointed on the post of Block Physical Teacher. He further submits that the Director, Primary Education, while considering the documents etc. produced by the petitioner, directed



the Block Education Officer/Employment Unit to consider the claim of the petitioner for his appointment on the post of Block Physical Teacher, but the Employment Unit, Paraiya Block, has arbitrarily denied the claim of the petitioner to be included in the final merit list for appointment to the post of Block Physical Teacher.

11. Learned Counsel for the petitioner relies upon an advertisement published by the Bihar School Examination Board, bearing Advertisement No. 373 of 2019, issued for conducting S.T.E.T., 2019 and P.E.H.I.E.E., 2019, and referring to Clause 14 (a) (iii) of the said advertisement, he submits that one of the eligibility criteria regarding Physical Education Instructor is certificate/diploma/degree in Physical Education from a recognized Board/University. He next submits that there is no requirement of having two-years Certificate in Physical Education (C.P.Ed.) for S.T.E.T., 2019 and P.E.H.I.E.E., 2019.

12. Learned Counsel also relies upon a decision of the Supreme Court, in the case of **Dr. Sridip Chatterjee v. Dr, Gopa Chakraborty and Others**, reported in **(2019) 15 SCC 59**, in support of his argument.

13. On the other hand, learned Counsel for the respondents-State submits that the claim of the petitioner was first



examined thoroughly by the District Teachers Appellate Authority, Gaya, which, by its order, dated 30.07.2010, dismissed the appeal of the petitioner by a reasoned order after coming to the conclusion that the petitioner is not fulfilling the eligibility condition, as prescribed in the 2006 Rules, of having two-years Certificate in Physical Education (C.P.Ed.). The petitioner has only one-year Certificate in Physical Education (C.P.Ed.) instead of two-years.

14. I have heard learned Counsel for the parties concerned and have gone through the material available on record.

15. It is not in dispute that the petitioner applied for appointment on the post of Block Physical Teacher, which was being controlled by the 2006 Rules. Rule 8 (3) of the 2006 Rules prescribed the eligibility criteria for appointment on the post of Block Physical Teacher as minimum two-years Certificate in Physical Education (C.P.Ed.). It is also not in dispute that the petitioner has only one-year Certificate in Physical Education (C.P.Ed.), issued by H. V. P. M., Amravati, Maharashtra, prior to coming into force of the National Council for Teacher Education Act, 1993.

16. The recruitment rules also prescribes that the candidate, who have obtained Physical Education Certificate from



a recognized Institution/Board/University before coming into force of the National Council for Teacher Education Act, 1993, shall also be required to have two-years Certificate in Physical Education (C.P.Ed.).

17. The impugned decision and letter of the Block Development Officer -cum- Secretary, Employment Unit, Paraiya Block, Gaya, which has been challenged by the petitioner by way of I. A. No. 01 of 2023, clearly gives the reason of not including he name of the petitioner in the merit panel for appointment on the post of Block Physical Teacher and upon perusal of the same, it is evident that the petitioner was not having the requisite eligibility criteria for appointment on the post of Block Physical Teacher.

18. The decision of the Supreme Court, in the case of **Dr. Sridip Chatterjee** (supra), is not applicable in the facts of the present case.

19. In view of the aforesaid discussion and the materials available on record, I find that there is no infirmity in the impugned decision of the Block Development Officer -cum- Secretary, Employment Unit, Paraiya Block, Gaya, not to appoint the petitioner on the post of Block Physical Teacher inasmuch as in my opinion also, the petitioner was not fulfilling the eligibility condition/criteria, as prescribed in 2006 Rules.



- 20.** In the result, this application is dismissed.
- 21.** There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	19-05-2023
Transmission Date	N/A

