

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19220 of 2014

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Paras Prasad Mehta, Son of Late Baleshwar Prasad Mehta, Resident of
Village- Kash Nagar, Police Station- Sonbarsa Raj, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department,
Government of Bihar, Patna
2. The Director, Secondary Education, Government of Bihar, Patna
3. The Regional Deputy Director of Education, Koshi Pramandal, Saharsa
4. The District Education Officer, Madhepura
5. Sanjiv Kumar Son of Not Known, Resident of Village- Budhma, Post
Office- Khara, Police Station- Udakishunganj, District- Madhepura

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Rajeev Kumar Sinha, AC to AAG-7

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 06-11-2023 1. Heard learned counsel for the respondents. No one
appears on behalf of the petitioner.

2. The petitioner has filed the instant application
praying for quashing of the order contained in memo no.1441
dated 10.10.2014 issued by the Regional Deputy Director of
Education, Koshi Pramandal, Saharsa whereby the respondent
no.5 has been made In-charge Principal of Shastri Smarak High
School, Khara, Madhepura, for further direction to the
respondents to make the petitioner as the In-charge Principal of
the said school and for other reliefs.

3. Learned counsel for the respondents refers to the



counter affidavit filed on behalf of the respondent nos. 1 to 4 wherein it has been stated that while the petitioner was appointed on contractual basis having no regular pay scale, the private respondent was a regular teacher. While the private respondent no.5 has a qualification of B.Ed. trained, the writ petitioner is not having the said qualification. Further referring to memo no.704 dated 13.3.2013 issued under the signature of the Director Secondary Education, learned counsel submits that the teachers not having B.Ed. trained qualification shall not be included in the list and should not be allowed to discharge the duty of In-charge Principal of a school. It is thus submitted that there is no illegality in the order impugned herein, directing the respondent no.5 to act as the In-charge Principal of the school.

4. For ready reference paragraph nos. 4 to 7 of the counter affidavit of the respondents is reproduced herein below:-

“4. That the case of the present petitioner is not at par with the case of several othe earlier decisions as has been cited by the writ petitioner in his present writ application since those teachers were regular appointee of the education department having their regular pay scale and inter se seniority list already prepared by the department whereas in the present case petitioner's appointment is on contractual basis having no regular pay scale and



inter- say seniority list and as such the petitioner cannot take shelter of the earlier decision / policy either taken by this Hon'ble Court or by the department.

5. That taking into consideration, the larger educational interest of the students, the government as well as the education department took a decision in the year 2008 that Acharya, Fazil and Physical Trained, then they cannot be included in the seniority list of B.Ed. Trained Teachers list and accordingly it is further directed that till the earlier Divisional Seniority list is not revised to that extent such non B.Ed. teachers should not be authorized to discharge the duty of In-Charge Principal of a High School vide departmental office memo no. 5379 dated 7.7.2008 issued under the signature of Director Secondary Education Bihar Board . copy of the said memo was sent to Regional Deputy Director, Education and copies of which were also sent to all district Education officer.

6. That again in the year 2013 it has been reconfirmed by the Director Secondary education vide his office memo no. 704 dated 13.03.2013 regarding non- authorization of Fazil, Acherya and Physical trained Teacher as a In- charge Principal of School who has no B.Ed. Trained Qualification as well as such teachers having no B.Ed. trained qualification shall not e included in the B.Ed. trained Teachers list .It is further clearly stated therein that till the revision of the present existing Seniority list, if any, such aforesaid teachers having no qualification of B.Ed. trained should not be



allowed to discharge the duty of in-charge Principal of the school. The said order / direction contained in office memo no. 704 dated 13.3.2013 was also communicated to all Regional Deputy Director, Education and District Education Officer.

7. That in view of the aforesaid facts and circumstances as well as the departmental decision / policy, the writ petitioner does not deserve for authorization of In-charge Principal of a High School and as such order dated 10.10.2014 as contained in annexure 2 of the writ application under reply are proper and valid. Much less, the writ petitioner's academic qualification is lesser than that of private Respondent no. 5 as the writ petitioner is B.Sc., B.P. Ed. Where as the Respondent no. 5 is M.A., B.Ed. teacher Trained, which can easily be verified from the annexure 1 series at page no. 14 of the writ application.”

5. Having perused the material on record and having heard learned counsel for the respondents, especially in view of the statement made in the counter affidavit as quoted herein above, the Court finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

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