

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10259 of 2019

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Kumari Sunita W/O- Nillessh Kumar D/o Parmanand Rai Resident of village
and p.O. Rampur Khoram, P.s.- Marhaura, Distt- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of human Resources Development, government of Bihar, Patna.
2. The Director Primary Education, government of Bihar, Patna.
3. The District Magistrate Saran at Chapra.
4. The Presiding Officer The District Teacher Appointment Appellate Authority, Saran.
5. The District Education Officer Saran.
6. The District Programme officer (Establishment) Saran
7. The Block Development Officer Isuapur, Block, Saran.
8. The Block Education Extension Officer Isuapur Block, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar

For the Respondent/s : Mr.Kameshwar Kumar (Gp17)

Mr. S.K. Ranjan, AC to GP 17

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT
Date : 15-12-2023

1. The petitioner has filed the present writ application for quashing the order dated 02.11.2018 passed by the State Appellate Authority, Education Department, Patna in Appeal No. 626 of 2018.

2. The factual matrix of the case in brief is that advertisement for appointment of Prakhand Shikshak / Block Teacher was published in 2008. The petitioner applied under the



unreserved female category on 06.11.2008. The candidates were called for counselling in which the petitioner also participated which was held on 24.01.2009 but no appointment letter was issued to any candidate by the Employment Unit, Isuapur Block as the Education Department stayed the process.

3. Learned counsel for the petitioner submits that more than one post of Block Teacher in Isuapur Block of Saran district in the unreserved female category are lying vacant which is evident from Annexure – 1 issued by the Block Development Officer, Isuapur Block, Saran. He further submits that the Principal Secretary, Department of Human Resources Development, Government of Bihar issued guideline / order to all authorities vide letter no. 207 dated 21.02.2011 at Annexure-2 whereby direction was issued to dispose all the pending matters relating to second phase of teachers appointment. Accordingly, the petitioner filed an appeal before the District Teachers Employment Authority, Chapra vide Case No. 20 of 2012 seeking direction upon the employment unit to complete the process and appoint the petitioner against unreserved female category but the said appeal has been dismissed by the District Appellate Authority on the ground of inordinate delay on the part of the petitioner in seeking the relief. Thereafter, the



petitioner filed appeal before the State Appellate Authority, Education Department, Patna vide Appeal No. 626 of 2018 and the said appeal got dismissed vide order dated 02.11.2018 and the order passed by the District Appellate Authority was upheld.

4. Learned counsel for the State submits that the State Appellate Authority as well as the District Appellate Authority have rightly dismissed the appeal inasmuch as both the authorities have arrived at the conclusion that there was inordinate delay on the part of the petitioner in approaching the appellate authority and also the vacancies were carried forward to the next phase of selection under the order of the Government. After the appointment of second phase, all the posts were carried forward for appointment of teachers in the third phase held between 2012 and 2013.

5. I have heard learned counsel for the parties and have gone through the materials available on record.

6. The District Appellate Authority, Chapra in paragraph- 5 of its order has taken note of the fact that all the vacancies were carried forward for third phase of appointment held in 2012-2013 and no vacancy exists for appointment. In paragraph – 6 of its order the District Appellate Authority / the Tribunal has observed that the petitioner has not indicated the subject



under which she was a candidate and the vacancies available in the particular subject. Further she has not indicated that what is the serial no. of the petitioner in the panel for the said subject. The Tribunal also observed that appeal filed by the petitioner is vague. The Tribunal further came to the conclusion that as per the Teachers Employment Rules, 2008 an aggrieved person has to file appeal before Appellate Authority within thirty days from the date of the impugned order or the cause of action but the appellant filed the appeal after inordinate delay on 04.06.2012 i.e. after more than one year from the date of letter issued by the Education Department dated 21.02.2011 bearing Memo No. 207.

7. The State Appellate Authority has confirmed the order passed by the District Appellate Authority.

8. Before the District Appellate Authority one of the issues was as to whether the vacancies which were notified in 2008 still exist. The District Education Officer, Saran, Chapra has brought a letter on record wherein it is mentioned that vacancies were carried forward to the next phase of selection of teachers held in 2012 -2013. The post which the petitioner is claiming no longer exists as it was carried forward in the next phase of selection.



9. After the second phase for appointment, in 2013 third phase of appointment has also completed and now a new rule i.e. Bihar State School Teachers (Appointment, Transfer, Disciplinary Proceedings and Service Conditions) Rules, 2023, has also come into force with effect from 10th April, 2023.

10. Taking into consideration the aforesaid discussions and the facts, I do not find any infirmity in the order dated 02.11.2018 passed by the State Appellate Authority, Education Department, Patna in Appeal No. 626 of 2018. Accordingly, the writ application is dismissed.

(Anil Kumar Sinha, J)

praful/-AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08-01-2024
Transmission Date	NA

