

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9681 of 2022

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Madhurendra Kumar S/o Late Yatendra Kumar Singh @ Yatindra Kumar R/o
Village and Post - Barkagaon, P.S.- Pakridayal District- East Champaran.
... .. Petitioner

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department Bihar, Patna.
2. The Director, Primary Education Education Department Bihar, Patna.
3. The Collector East Champaran, Motihari.
4. The Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, East Champaran, Motihari.
5. The District Education Officer, East Champaran, Motihari.
6. The District Program Officer (Establishment), East Champaran, Motihari.
7. The Block Education Officer, Pakridayal, East Champaran.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar Manoj, Advocate
For the Zila Parishad : Mr.Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-08-2023 Heard learned counsel for the petitioner and learned
counsel for the Zila Parishad. No one appears for the State.

2. The petitioner in the present case is seeking a Writ in the nature of Mandamus commanding respondent no. 4 to consider his case for appointment on the post of Assistant/Office Clerk in the School in the light of Letter No. 1128 dated 21.08.2020 (Annexure '3' to the writ application) issued by the Education Department, Government of Bihar.

3. It is the case of the petitioner that upon death of his father in harness on 01.02.2020, the petitioner applied for appointment on compassionate ground. Vide Memo No. 1128



dated 21.08.2020, the Department of Education, Government of Bihar has resolved that there will be an appointment on compassionate ground after death of Teacher or non-Teaching staffs while in service period.

4. The name of the petitioner was considered and upon verification of his documents, his name has been recommended for appointment on compassionate ground. The petitioner claims that he has approached the office of respondent no. 4 on several occasions but no heed was paid to him on the representation.

5. Learned counsel for the petitioner submits that from the counter affidavit, it would appear that the name of the petitioner stands at serial no. 60 in the list of candidates who are waiting for their appointment on compassionate ground but there is no clarity in the counter affidavit that respondent no. 4 has calculated the total number of vacancies available in the year 2020, 2021 and 2022. Learned counsel submits that the stand of the respondent no. 4 is based on the vacancy of the year 2019.

6. Learned counsel for the Zila Parishad, however, submits that as per the Government's policy contained in Column 6(vii) of the Memo No. 978 dated 09.07.2021 issued



under the signature of Director, Secondary Education, Government of Bihar, the appointment will be made on compassionate ground as per descending order and as per the application from the date of death.

7. It is further submitted that according to Resolution contained in Memo No. 1128 dated 21.08.2020 issued by the Deputy Secretary, Education Department, Govt. of Bihar, 50% of the total vacancies is to be filled up from the candidates seeking appointment on compassionate ground.

8. Learned counsel submits that the name of the petitioner is at serial no. 60 and he will be appointed as per descending order as and when vacancy arises.

9. At this stage, learned counsel for the petitioner submits that by a recent Resolution contained in Memo No. 7095 dated 15.07.2021, the maximum limit of 50% of the vacancies to be filled up by compassionate appointment has been removed and that should be considered by the respondent no. 4.

10. Having regard to the facts and circumstances of the case, considering that it is a case of compassionate appointment and such appointments are required to be made with some urgency keeping in view the purpose for which the



compassionate appointments are made, this Court directs the respondent no. 4 to calculate the total number of vacancies available as on date and proceed with the list available to them for appointment on compassionate ground within a reasonable period.

11. While doing so, the recent Resolution of the General Administration Department as contained in Memo No. 7095 dated 15.07.2021 should also be considered. Respondent no. 4 shall offer appointment to the petitioner immediately upon a vacancy being available as per the status of the petitioner in the list but in any case the vacancies available for appointment on compassionate ground as per aforementioned resolutions should not remain unfilled up for an unreasonable ground.

12. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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