

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14812 of 2022

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Jayendra Pathak S/o Late Upendra Pathak Resident of Village-
Raghunandanpur, P.O.- Dadpur, P.S.- Teghra, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Home Department, Govt. of Bihar, Patna.
2. The Secretary, Home Department, Government of Bihar, Patna.
3. The Director Secondary Education, Govt. of Bihar, Patna.
4. The Dy. Director of Education, Patna Division, Patna.
5. The District Magistrate, Patna.
6. The District Education Officer, Patna.
7. The District Program Officer, Patna.
8. The Patna Municipal Corporation, Maurayalok Complex, Patna.
9. The Municipal Commissioner, Patna Nagar Nigam, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar
For the State	:	Mr. Ruchikar Jha, AC to SC 8
For the P.M.C.	:	Mr. Sanjay Prakash Verma

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 05-04-2023 Heard learned Counsel for the parties concerned.

The present writ application has been filed for appointment of the petitioner on compassionate ground on the post of Vidyalaya Sahayak inasmuch as the father of the petitioner died in harness on 13.03.2016, while posted as Assistant Teacher in Narayani Kanya High School, Patna City.

Learned Counsel for the petitioner submits that the respondents formulated a new rule for appointment on compassionate ground, vide Memo No. 1128, dated 21.08.2020



(Annexure-7) and upon representation made by the petitioner on the basis of the new rule, the District Education Officer, Patna, sent a letter to the Patna Municipal Commissioner recommending therein that the petitioner may be appointed as Vidyalaya Sahayak (Annexure-9). Thus, the submission is that despite the recommendation for appointment sent by the District Education Officer, Patna, the Municipal Commissioner, Patna, has not appointed the petitioner.

On the other hand, learned Counsel for the Municipal Commissioner, submits that the name of the petitioner, in the list of recommendee for compassionate appointment, is at serial no. 16 and as per the vacancy position and the vacancy forwarded by the Government, only six persons, out of the said list, have been appointed and the petitioner has not been appointed due to unavailability of the vacancy. He, referring to paragraph 7 of the counter affidavit filed on behalf of the Municipal Corporation, submits that the Patna Municipal Corporation, vide its letter no. 14644, dated 21.10.2022, has requested the District Education Officer, Patna, to send the new vacancy for appointment on compassionate ground (Annexure-B).

On the other hand, learned Counsel for the State, referring to paragraph 6 of the counter affidavit filed on behalf



of respondent nos. 6 and 7, submits that the petitioner is eligible for appointment on the post of Vidyalaya Sahayak in the Government owned High Schools, but due to unavailability of the vacancy for appointment on compassionate ground, the petitioner could not be appointed right now. He further submits that the petitioner has to wait for some more time for appointment, subject to the availability of the vacancy.

Having regard to the submissions advanced on behalf of the parties and taking into consideration the fact that the petitioner is already in the list of recommended persons for appointment on compassionate ground and the stand of the respondent-State that the petitioner is in the waiting list and shall be appointed as soon as the vacancy occurs, this writ application is disposed with a direction that as and when the vacancy occurs for the post of Vidyalaya Sahayak, the petitioner shall be considered for appointment in accordance with law.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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