

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6716 of 2018

Arvind Kumar Singh Son of Sri Sakaldip Singh Resident of Village -
Dhanihari, Block - Durgawati, Police Station - Durgawati, District - Kaimur
at Bhabua Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna
2. The State Appellate Authority, Education Department, Bihar, Patna.
3. The District Magistrate, Kaimur at Bhabua.
4. The District Education Officer, Kaimur at Bhabua.
5. The Block Education Extension Officer, Kaimur, Block - Mohania, District -
Kaimur.
6. The Panchayat Sachiv, Gram Panchayat Usari, Block - Mohania, District -
Kaimur at Bhabua.
7. The Mukhiya, Gram Panchayat, Usari, Block - Mohania, District - Kaimur
at Bhabua.
8. Ashok Kumar Garg Son of Rama Kant Tiwari Resident of Village - Usari,
Post Office - Akorhi Block and Police Station - Mohania, District - Kaimur
at Bhabua.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ramchandra Singh
For the Respondent/s	:	Mr.Kameshwar Kumar -Gp17
		Mr. Amit Bhushan, AC to GP 17
For the Respondent-8	:	Mr. Ashok Kumar Garg (in person)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 24-03-2023 Aggrieved by the order dated: 15-03-2018 passed by
the State Appellate Authority, Education Department, Bihar in
Appeal No. 208 of 2017 by which the Panchayat Employment
Unit, Gram Panchayat- Usari, Block- Mohania, District- Kaimur
has been directed to cancel the appointment of the petitioner and
to appoint the private respondent no. 8 as Panchayat Teacher the



petitioner has preferred the present writ application.

2. The case of the petitioner in brief is that in 2006 applications were invited for appointment as 'Panchayat Teacher' in which Intermediate was made the requisite qualification. The petitioner as well as the respondent no. 8 and others applied for appointment but the name of the petitioner was not included in the merit panel despite having higher marks and the name of the candidates having less marks than the petitioner were included in the panel for appointment. On complaint being made by the petitioner before the Authorities and upon consideration of his claim the name of the petitioner was placed at serial no. 2 of the merit list, which was prepared in the year 2007, name of one Nand Bihari Singh was placed at serial no. 1 and respondent no. 8 / Ashok Kumar Garg was placed at serial no. 3. On the basis of the decision of the respondents not to consider the certificate of Madhyama (Visarad) issued by Hindi Sahitya Sammelan, Prayag, Allahabad the first empanelled candidate - Nand Bihari Singh, who was having Madhyama (Visarad) certificate from Hindi Sahitya Sammelan, Prayag, Allahabad was displaced from the merit panel. Pursuant to challenge made by the petitioner before the District Teacher Employment Appellate Authority, Kaimur and



in view of the order dated 29-06-2010, appointment letter dated 16-07-2010 vide letter no. 30 was issued in favour of the petitioner and the petitioner accordingly joined on 17-07-2010 in the Upgraded Middle School, Maharo, where he has been working since then. The petitioner claimed that he got 588 marks i.e. 558 / 900 marks in compulsory and optional subjects + 30 marks given for vocational subject making it 588 marks in aggregate.

3. The claim of the respondent no. 8 is that the original merit list was prepared in the year 2007 in which four candidates were included and one Nand Bihari Singh was at serial no. 1, respondent no. 8 was at serial no. 2 and writ petitioner was not included in that merit list. The appointment of Nand Bihari Singh was cancelled and writ petitioner who is the son-in-law of the then Mukhiya was wrongly placed in the merit panel by adding the marks of vocational subject making the total marks as 588 instead of 558 marks which was awarded out of 900 marks in compulsory and optional subject. As per State Government instruction for calculating percentage of marks for the purpose of employment of 'Panchayat Teacher' the marks obtained in compulsory and optional subject shall only be computed which comes to total marks of 900 and the marks of



vocational subjects and additional subjects are not to be added while preparing the merit panel.

4. The writ petitioner filed Case No. 149 of 2009 before the District Appellate Authority, which relying upon the statement of the Mukhiya (i.e. father- in- law of the writ petitioner) that the petitioner has got 588 marks out of 900 allowed the appeal on 29/06/2010 in favour of writ petitioner whereas the petitioner got only 558 marks out of 900 but after adding 30 marks obtained by the petitioner in the vocational subject his percentage was increased.

5. The respondent no. 8 filed a writ petition bearing CWJC No. 1910 of 2008 and this Court after passing interim order on 23-09-2010 in favour of the respondent no. 8 (Annexure- C of the counter affidavit filed by the respondent no. 8) finally disposed the writ petition on 22.06.2011 with liberty to the petitioner to file review of the order dated 29-06-2010 passed by the appellate authority. The Appeal No. 142 of 2011 was decided against the respondent no. 8 vide order dated 01.10.2011 and aggrieved by the same and pursuant to the order dated 24/07/2017 passed by this Court in CWJC No. 1415 / 2012 the respondent no. 8 preferred Appeal No. 208 of 2017 before the State Appellate Authority and the State Appellate



Authority by the impugned order 15/03/2018 has allowed the appeal filed by the respondent no. 8 with a direction to cancel the appointment of the writ petitioner and for appointment of the respondent no. 8 in his place.

6. The respondent no. 4 / District Education Officer, Kaimur at Bhabhua has filed a counter affidavit on behalf of the respondents stating therein that the petitioner was wrongly selected over the private respondent no. 8, who got more marks than the petitioner hence the learned State Appellate Authority has arrived at just conclusion after detailed discussion of the facts and hence the impugned order is not required to be interfered with.

7. I have heard learned counsel for the parties and have perused the material on record including the impugned order. The only issue which requires consideration in the present writ application is as to whether the marks obtained in vocational subject at Intermediate level can be added while preparing the merit marks of the candidates for employment as 'Panchayat Teacher'. It is not disputed that the respondent no. 8 has got 564 marks out of 900 which comes to 62.66% and the writ petitioner has got 558 out of 900 marks which is less than the marks obtained by the respondent no. 8 and is 62% but



while preparing the merit list 60 marks in vocational subject obtained by the writ petitioner, 30 marks has been added in the total marks obtained by him out of 900 and accordingly his aggregate marks has been increased to 588 (i.e. 558 + 30) and he has been placed at serial no. 1 in the panel. It may be noted at this stage that the writ petitioner is the own son- in- law of the then Mukhiya, who was part of the Selection Committee though it is the claim of the writ petitioner that while preparing the merit list for the second time his father-in-law [i.e. Ex-Mukhiya] did not participate. From perusal of Annexure – E to the counter affidavit filed by the respondent no. 8 which is *Vigyapti* [clarification] issued by the Education Department, Government of Bihar it appears that while preparing the merit list the marks obtained in vocational subject were not to be added and the merit list therefore was to be prepared out of total 900 marks obtained in compulsory and optional subjects. The marks of additional subjects were also not to be added while preparing the merit marks. The learned State Appellate Authority has arrived at a conclusion that if marks of vocational subject is added then the total full marks will become 1000 and not 900 and therefore higher percentage of marks calculated in favour of the writ petitioner in Intermediate by adding the marks of



vocational subject is erroneous whereas the petitioner got 558 marks only out of 900, which is less than the 564 marks out of 900 obtained by respondent no. 8, and as such, the State Appellate Authority has come to the conclusion that the writ petitioner was wrongly appointed showing his marks as 588 out of 900.

8. In view of the aforesaid discussion I am of the opinion that marks obtained in vocational subject was not to be added while preparing the merit panel and assessment was to be done out of full marks of 900. Admittedly, the respondent no. 8 has got higher marks than the writ petitioner, accordingly, I come to the conclusion that the order passed by State Appellate Authority does not suffer from any illegality and needs no interference.

9. Accordingly, the writ petition stands dismissed.

praful/-

(Anil Kumar Sinha, J)

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