

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1158 of 2019

In
Civil Writ Jurisdiction Case No.16281 of 2019

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Priti Priyadarshini Wife of Manjay Kumar Resident of Village and P.O.-
Bakhari, P.S.- Sursand, District- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Magistrate, Sitamarhi, District- Sitamarhi.
5. The Deputy Development Commissioner, Sitamarhi, District- Sitamarhi.
6. The District Education Officer, Sitamarhi, District- Sitamarhi.
7. The District Programme Officer (Establishment), Sitamarhi, District- Sitamarhi.
8. The Block Development Officer, Block- Parihar, District- Sitamarhi.
9. The Block Education Officer, Block- Parihar, District- Sitamarhi.
10. The Panchayat Secretary Gram Panchayat Raj, Sutihara, Block- Parihar, District- Sitamarhi.
11. The Mukhiya, Gram Panchayat Raj Sutihara, Block- Parihar, District- Sitamarhi.
12. Pushpa Kumari Wife of Ranjit Singh Resident of Village- Adkhani, P.O. and P.S.- Parihar, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mrityunjay Kumar, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey (AAG15)
		Mr. Arun Kumar, Advocate
		Mr. Sanjay Kumar Sharma, Advocate
		Ms. Sandhya Kumari Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 18-10-2023

Heard learned counsel for the parties.

2. The present appeal is directed against the order



dated 13.08.2019 passed in CWJC No. 16281 of 2019 by which the learned Single Judge dismissed the claim of the appellant-petitioner for appointment as Panchayat Teacher in Gram Panchayat Raj-Sutihara, Block-Parihar, in the district of Sitamarhi.

3. The facts leading to the present appeal is/are as follows:

4. The matter relates to the appointment of Panchayat Teachers in Gram Panchayat Raj-Sutihara, Block-Parihar, in the district of Sitamarhi for which process was initiated in the year 2007. The appellant-petitioner having 62.80 % marks in the Intermediate submitted her application under Backward Class (Female category). She was amongst 296 candidates who submitted their respective applications.

5. In the merit list so prepared, while the appellant-petitioner was placed at serial no. 25, the respondent no. 12 was at serial no. 24. The meeting took place on 28.10.2007 and the counseling date was fixed as 03.11.2007 for checking the certificates of the candidates.

6. It is the case of the appellant-petitioner that while she appeared alongwith her original documents before the Authority on 03.11.2007, the Uncle of the respondent no. 12



came there, put in the signature of the respondent no. 12 in the counselling register and also threatened the respondents to issue employment letter in her favour which was informed to the Block Development Officer, Parihar, Sitamarhi by the Mukhiya/Panchayat Secretary.

7. It is the further case of the appellant-petitioner that another chance was given on 06.11.2007, but the respondent no. 12 did not submit any document. Accordingly, after the appellant-petitioner gave her consent, she was issued an appointment letter on 08.11.2007 (Annexure-7 to the writ petition).

8. Thereafter, she submitted her joining and started discharging her duties. The respondent no. 12, on the other hand, submitted her application before the District Magistrate, Sitamarhi and the Block Development Officer on 22.11.2007 alleging illegalities.

9. Subsequently, the District Magistrate, Sitamarhi directed the Block Development Officer, Parihar to enquire into the matter vide its office letter dated 27.12.2007.

10. Thereafter, vide letter no. 175 dated 26.02.2008, the B.D.O submitted the enquiry report (Annexure-9) to the D.M., Sitamarhi.



11. Later, vide letter no. 754 dated 31.05.2008, the B.D.O rejected the application dated 22.11.2007 of the respondent no.12 on the ground that she failed to submit the original documents before the appointing authority within the time.

12. The respondent no. 12 filed C.W.J.C. No. 12378 of 2008 before the Hon'ble Patna High Court questioning the appointment of the appellant-petitioner on the ground that she has more marks than her.

13. During the pendency of the said writ application, the respondent no.12 preferred Appeal Case No. 60 of 2009 before the District Teachers Employment Appellate Authority, Sitamarhi (henceforth for short 'the Appellate Authority') for the same relief i.e. questioning the appointment of the appellant-petitioner.

14. The appellant-petitioner was noticed by 'the Appellate Authority' whereafter she appeared and submitted that writ application filed by respondent no.12 is pending before the Patna High Court. Accordingly, the matter was adjourned awaiting the decision of the Patna High Court.

15. On 07.08.2009, the writ application (CWJC No. 12378 of 2008) was dismissed allowing the respondent no. 12



to pursue the matter before 'the Appellate Authority'.

16. Thereafter, the matter was taken up by the 'the Appellate Authority' and vide an order dated 09.09.2009, her appointment was cancelled.

17. The appellant-petitioner filed review application no. 02/09 before 'the Appellate Authority' against the order dated 09.09.2009 in which notices were issued to the respondent no. 12 but inspite of valid service of the notice, she chose not to appear.

18. Pursuant to the said review application, 'the Appellate Authority' vide letter no. 05 dated 29.01.2010 directed the B.D.O., Parihar (respondent no.8) to certify the copy of counselling register (dated 03.11.2007) submitted by the appellant-petitioner and respondent no.12.

19. Thereafter, vide memo no. 281 dated 15.02.2010, the B.D.O, Parihar directed the Panchayat Secretary (respondent no. 10) who is/was the custodian of the records to enquire and submit the report.

20. Later, vide letter no. 11 dated 22.02.2010, the Panchayat Secretary submitted report to the respondent no. 8, stating therein that respondent no.12 has submitted the forged document before 'the Appellate Authority'. This was



forwarded by the B.D.O., Parihar vide letter no. 381 dated 11.03.2010 to 'the Appellate Authority'.

21. However, despite the inquiry report before 'the Appellate Authority', it dismissed the review application on 01.04.2010 (Annexure-18 to the writ petition).

22. Aggrieved, CWJC No. 7593 of 2010 was preferred by the appellant-petitioner for quashing of the order dated 09.09.2009 and 01.04.2010 issued by 'the Appellate Authority'.

23. The writ petition was dismissed on 06.03.2013 (Annexure-19 to the writ petition) which followed LPA No. 386 of 2013 and the same was finally disposed of on 04.09.2013/26.02.2014 (Annexure-20 to the writ petition) with a direction to the Principal Secretary, Education Department to enquire into the matter, examine the original records and pass an appropriate order.

24. The Principal Secretary, Education Department, Bihar thereafter took up the matter and vide reasoned order dated 06.05.2019, rejected the claim of the appellant-petitioner holding that:

(i) the respondent no. 12, Pushpa Bharti has 569 marks (63.2 %) whereas the appellant-petitioner herein, Priti



Priyadarshini secured 566 marks (62.8%);

(ii) the marks of Pushpa Bharti was higher than that of the appellant-petitioner;

(iii) the matter was enquired into through the District Education Officer and it was found that Pushpa Bharti has signed in the interview register as well as in the counselling register and both were found to be the same. Thus, the allegation that it was signed by someone else, is not proved.

(iii) in case, anyone else had forcibly signed in place of Pushpa Bharti, the appointing authorities were duty bound to lodge the FIR. Further, this would have been incorporated in the counselling register which was not done;

(iv) below the signature of Pushpa Bharti, original documents not received, remarks was given by the Panchayat Secretary and he has put in his signature;

(v) further, 22 candidates appeared and put in their signature but original documents not received remarks has been given against them;

(vi) the same cannot be accepted and in that backdrop, the claim of Priti Priyadarshini for her selection has to be rejected.



25. Aggrieved, the CWJC No. 16281 of 2019 was preferred by the appellant-petitioner.

26. The learned Single Judge took up the matter on 13.08.2019 and after hearing the parties and perusing the records, dismissed the writ petition.

27. Still aggrieved, the present appeal.

28. Heard learned counsel for the appellant, the State as also the learned Senior Counsel appearing for the respondent no. 12.

29. Learned counsel for the appellant submits that admittedly, the respondent no. 12 was absent on the date of counselling, her uncle put in her signature and further, she had not submitted her original documents and thus, she was rightly selected to the post but 'the Appellate Authority' illegally passed an order against her.

30. Further, the Principal Secretary came to an erroneous conclusion for not interfering in the matter and rejecting the case of the appellant.

31. A counter affidavit has been filed on behalf of the State narrating the entire facts and learned State counsel supported the stand taken by the Principal Secretary, Education Department.



32. Learned Senior Counsel appearing for the respondent no. 12 submits that a bare perusal of the order passed by the Principal Secretary, Education Department, Bihar, Patna would show that only to accommodate the appellant-petitioner, the Panchayat Secretary remarked against all other candidates that the original document has not been submitted.

33. He further submits that the respondent no. 12 had higher marks but as the appointing authority i.e. 'Mukhiya' and the Panchayat Secretary wanted to accommodate the appellant-petitioner, they made allegations but no FIR lodged as pointed out by the Principal Secretary. He as such submits that the writ Court rightly passed the order dismissing the petition.

34. We have gone through the facts of the case which has already been detailed out in the earlier paragraphs. The respondent no. 2, the Principal Secretary, Education Department, Bihar, Patna on the direction of the Court held an inquiry through the District Education Officer, Sitamarhi whereafter it came to the conclusion that:

(i) there was no difference in the signature of the respondent no. 12;



(ii) though 22 candidates appeared in the counseling, remark was made against all of them (save and except the appellant-petitioner) that original document has not been submitted.

35. In that backdrop, the respondent no. 2 rejected the claim of the appellant-petitioner.

36. The learned Single Judge in its order dated 13.08.2019 has also detailed out the facts of the case as also the order of the Principal Secretary for negating the claim of the appellant-petitioner.

37. We see no reason to interfere with the order passed by the writ Court in CWJC No. 16281 of 2019.

38. The appeal fails and is accordingly, dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

kiran/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.10.2023.
Transmission Date	

