

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11958 of 2017

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Sima Kumari D/o Ram Narayan Tiwari, W/o Atul Kumar Gupta, resident of
Village- Mathariya P.S. Mahalgaon, District- Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, The Department of Human Resources, The Government of Bihar, Patna.
2. The Director, Primary Education, Bihar.
3. The Director State Council of Education Research and Training, Bihar Education Department, Bihar, Patna
4. The District Magistrate, Araria.
5. The District Education Officer, Araria.
6. The District Programme Officer Establishment Araria.
7. The Block Education Officer, Jokihat, Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anil Prasad Singh
For the Respondent/s : Mr.Prabhakar Jha-Gp27

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 14-03-2023 The petitioner was appointed as an Elementary Teacher in 2007. The Government came out with a Rule vide Notification No. 7/1-37/2010/241 dated 03.04.2012 namely Bihar Panchayat Elementary Teacher (Appointment and Service Conditions) Rule, 2012. As per the Rule elementary teachers were required to pass the Elementary Teacher's Evaluation Examination. The qualifying marks for the general category candidates was fixed as 45% & 40% marks was fixed for the reserved category candidates. Admittedly the petitioner belongs to general category.



Learned counsel for the petitioner submits that petitioner appeared in the Elementary Teacher's Evaluation Examination twice but she secured 41% & 42% marks respectively. However, his submission is that since the petitioner was appointed against 50% quota for the women candidates, therefore, she can be treated to be a reserved category candidate, for which, the pass mark is 40% accordingly, the petitioner is entitled to be given benefit arising out of the Rule.

On the other hand, learned counsel for the State submits that the contention of the petitioner is misconceived. The petitioner is admittedly a candidate of general category and 50% quota is reserved for women category candidates under which the petitioner being a general category candidate was appointed as such the petitioner cannot claim to be a candidate of reserved category merely because she was appointed against over all 50% quota fixed for women candidates. However, he submits that in L.P.A. No. 769 of 2015 a Division Bench of this Court vide judgment dated 17.07.2015 has granted one more chance to the candidates, who could not qualify in the previous two examinations.

Having heard learned counsel for the parties and taking into consideration the nature of relief prayed for by the



petitioner, I am of the opinion that argument advanced by learned counsel for State has valid reasons inasmuch as merely because the petitioner being a general category candidate appointed against 50% quota reserved for women candidates, she cannot be treated as a reserved category candidate and consequently claim that the minimum qualifying marks of such women candidates shall reduce to 40%. Accordingly, I do not find any merit in this application. The same is rejected.

However, if the respondents have taken a decision to allow such candidates to take more attempts in the examination held by the respondents, the petitioner shall be at liberty to appear in accordance with law.

(Anil Kumar Sinha, J)

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