

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15619 of 2017

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Bibha Kumari w/o Ajit Kumar, Resident of Dinkar Nagar, Majhauriya, P.S.
Sadar, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. State Project Director, Bihar Education Project, Govt. of Bihar, Patna.
4. State Program Officer, Bihar Education Project, Department of Education, Govt. of Bihar, Patna.
5. Block Education Officer cum Block Project Coordinator, Sattar Kataiya Block, Saharsa.
6. District Education Officer, Saharsa.
7. District Program Officer, Bihar Education Project, Saharsa.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Harsh Singh, Advocate
For the State	:	Mr.S.C.Mishra -SC-16
		Mr.Pramod Kumar Singh, AC to SC-16
For the Resp.BEP	:	Mr.Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 27-06-2023 Heard learned counsel for the petitioner and learned
counsel for the Bihar Education Project.

Petitioner, in the present case, has prayed for issuance
of a writ in the nature of writ of certiorari to quash and cancel
the order as contained in letter no. 820 dated 01.08.2017 passed
by the Respondent no. 7 whereby and whereunder the petitioner
has been removed from the post of Resource Teacher (Blind),
Sarva Shiksha Abhiyan under Bihar Education Project. By way
of further prayers the petitioner has prayed for quashing the



decision of the selection committee contained in Proceeding No. 11 dated 01.08.2017 for removing the petitioner on account of the petitioner being overage in terms of the advertisement. She has also prayed for reinstatement with back-wages and the other consequential benefits.

The admitted fact of the case is that an advertisement dated 08.11.2012 (Annexure '5') was published inviting applications from the eligible candidates for appointment/engagement as Rehabilitation/Resource Teachers under Sarva Shiksha Abhiyan for the district of Saharsa. The initial engagement was for a period of one year only. The advertisement lays down *inter alia* a criteria with respect to the age of a candidate and according to this condition the candidate should have been between 18 – 45 years as on 01.11.2012.

Admittedly, on the cut off date the petitioner was more than 46 years old, but she applied and was selected. She also continued for a period of five years but later on a complaint was received by the respondent which was examined by a Committee and the petitioner was called upon to produce her documents which she did. She also filed her response but finally the Committee took a view that the selection of the petitioner was against the terms of the advertisement so she was



liable to be removed.

Learned counsel for the petitioner has submitted that in fact the age criteria introduced in the advertisement of Saharsa District was not in consonance with the guidelines which were issued by the competent authority. To support his plea, he has relied upon some of the advertisements of the other districts wherein no age criteria was mentioned.

Learned counsel has further submitted that there were dearth of eligible candidates for the post of Resource Teacher and for this reason only the eligibility criteria as respect qualification was lowered down to accommodate the candidates who were eligible under the amended provisions.

Learned counsel submits that no doubt the petitioner was aged more than 46 years but her candidature was duly considered by the selection committee and it is because of this condition that there were lack of required teachers, the petitioner was appointed.

Having heard learned counsel for the petitioner and the Bihar Education Project, this Court finds from the records that admittedly the advertisement as contained in Annexure '5' lays down age criteria wherein the candidates should be between 18 – 45 years as on 01.11.2012. The petitioner was



more than 46 years on the said date. So far as the decision of the selection committee is concerned, it nowhere shows that the selection committee was competent to overlook that age criteria or give any concession/relaxation with respect to the age mentioned in the advertisement. No such provision has been brought to the notice of this Court. The deliberations of the selection committee as contained in Annexure '7' is not showing any conscious decision to appoint the petitioner after relaxation of age. So far as the submission that in the advertisement of other districts, there was no age criteria, this Court finds that this plea is not required to be considered as the case is to be looked into in it's own facts and circumstances.

This Court, therefore, finds no reason to interfere with the impugned orders.

For the aforesaid reasons, this application would fail and it is dismissed, accordingly.

Dismissal of this writ application shall however not come in the way of the petitioner if she would be eligible for appointment in terms of any future advertisement.

(Rajeev Ranjan Prasad, J)

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