

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.744 of 2022

In

Civil Writ Jurisdiction Case No.3881 of 2021

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1. Bipin Kumar Mishra (Male) aged about 42 years, son of Sri Ful Kumar Mishra resident of Village- Charaiya, P.S.- Bhargama, District- Araria.
 2. Md. Saud Alam (Male) aged about 42 years, son of Abdul Qudus resident of Village and P.O.- Akarthapa, P.S.- Bhargama, District- Araria.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Araria.
5. The District Programme Officer (Establishment), Araria.
6. The Regional Deputy Director of Education, Purnea Division, Purnea.
7. The Block Education Officer, Bhargama, District- Araria.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Navjot Yesu, Advocate
For the Respondent/s : Smt. Shilpa Singh, GA 12

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 06-02-2023

Re: I.A. No. 2 of 2023

Heard I.A. No. 2 of 2023 for condonation of delay in
filing the present L.P.A.



2. For the reasons stated in the application and affidavit, delay of 31 days in filing the present L.P.A. is condoned. I.A. No. 2 of 2023 stands allowed.

3. In the instant L.P.A., appellants have assailed the order of the learned Single Judge dated 19.10.2022 passed in C.W.J.C. No. 3881 of 2021. The appellants were appointed as Panchayat Teachers in the year 2017. The selecting and appointing authority had failed to take note of eligibility criteria under Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (for short “the Act, 2009”). Section 23 of the Act, 2009 reads as under:

“23 Qualifications for appointment and terms and conditions of service of teachers.

(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.

(2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification: Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years.



(3) The salary and allowances payable to, and the terms and conditions of service of, teacher shall be such as may be prescribed.”

4. The selecting and appointment authority have failed to take note of the aforesaid criteria before selecting and appointing appellants and similarly situated persons. This was subject matter of litigation. Taking note of error committed by the authorities, authorities have extended two years time to acquire the requisite qualifications stated under Section 23 of the Act, 2009. Since, appellants failed to acquire the aforementioned qualifications for the purpose of appointment to the post of Panchayat Teachers read with the fact that they were given sufficient time. The same was taken note of by the learned Single Judge while dismissing the writ petition filed by the appellants.

5. Learned counsel for the appellants vehemently contended that the selecting and appointing authority should have insisted at the time of appointment that they were required to fulfill the eligibility criteria mentioned under Section 23 of the Act, 2009, therefore, they are entitled to some more time to acquire the aforementioned qualifications. Courts cannot extend time limit for acquisition of any qualification in order to regularize selection and appointment to a particular post. It is a policy decision of the State, therefore, no infirmity is forthcoming from



the order of the learned Single Judge dated 19.10.2022 passed in
C.W.J.C. No. 3881 of 2021. Accordingly, L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.02.2023
Transmission Date	NA

