

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2184 of 2020

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Tarun Kumari, Daughter of Sri Kapildeo Singh, Resident of Village-Barharwa, P.S.-Majorganj, District-Sitamarhi.

... .. Petitioner/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, Government of Bihar, Patna.
4. The District Magistrate, Sitamarhi, District-Sitamarhi.
5. The District Education Officer, Sitamarhi, District-Sitamarhi.
6. The District Programme Officer Establishment (Education) Sitamarhi, District-Sitamarhi.
7. The Block Development Officer, Majorganj, District-Sitamarhi.
8. The Block Education Extension Officer, Majorganj, District-Sitamarhi.
9. The Mukhiya, Gram Panchayat Raj Majorganj, Block-Majorganj, District-Sitamarhi.
10. The Panchayat Secretary, Gram Panchayat Raj Majorganj, Block-Majorganj, District-Sitamarhi.
11. Meenu Kumari, Daughter of Harendra Singh, R/o Village-Dumarikala, P.S.-Majorganj, District-Sitamarhi.
12. Sudha Rani, Daughter of Awadhesh Prasad, R/o Village and P.O. and P.S.-Majorganj, District-Sitamarhi.
13. Bibha Kumari, Daughter of Suresh Prasad Singh, W/o Ajay Kumar Singh, R/o Village-Gadhwa Bishanpur, P.O.-Pachharwa, P.S.-Majorganj, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mrityunjay Kumar, Adv.
For the State	:	Mr.Ashutosh Ranjan Pandey, AAG-15
For Respondent No.12	:	Mr. Bhagya Narain Gupta, Adv.
For Respondent No.10	:	Mr. S.K. Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 15-07-2024

Heard learned counsel for the petitioner and learned
counsels for the respondents.



2. By filing this writ application, the petitioner has prayed for the following reliefs:

(i) *For issuance of a writ in the nature of certiorari or any other appropriate writ/order/direction to quash the order dated 15.11.2011 passed in appeal case no. 34/2011 and 41/2011 contained in letter no. 123 dated 16.11.2011 issued by the District Appellate Authority, Sitamarhi, whereby and where under the appointment of the petitioner was found irregular and has been cancelled. Further, the Panchayat Secretary of the Panchayat has been directed to hold a fresh counselling and then complete the employment process. (Annexure-1 of the writ application)*

(ii) *For issuance of a writ in the nature of certiorari to quash the Memo No- 05 dated- 10.08.2012 issued by the Panchayat Secretary of the Panchayat whereby and where under the employment/appointment of the Petitioner has been cancelled. (Annexure-2 of the writ application)*

(iii) *For issuance of a writ in the nature of certiorari or any other appropriate writ/order/direction to quash the order dated 10.07.2019 passed in appeal No. 356 of 2017, by the State Appellate Authority, Bihar, Patna, whereby and where under the appeal against the order dated 15.11.2011 (Annexure-1) has been rejected. (Annexure-3 of the writ application)*

(iv) *For issuance of a writ in the nature of Mandamus or any other appropriate writ/order/direction to cancel the employment of Respondent No-13 who has been employed on the basis of the order impugned (Annexure-1) issued by the District Appellate Authority, Sitamarhi.*

(v) *For issuance of a writ in the nature of mandamus or any other appropriate writ/order/direction to the respondents to*



reinstate the Petitioner on her respective post of Panchayat Teacher with all consequential benefits.

(vi) For any other relief/reliefs for which the petitioner is found entitled in the facts and circumstances of the present case.

3. Briefly stated, the facts of the case, as it emerges from the record, are that the petitioner, respondent no.13 and other candidates applied for the post of Panchayat Teacher. There were 5 vacancies, out of which each one post was reserved for UR, UR(F), EBC, SC(F) and BC categories. The petitioner and respondent no.13 applied under UR Female category for employment of Panchayat Teacher along with copy of required educational qualification. The name of the petitioner was placed at serial no. 1737 at the Primary Teacher Appointment Register, 2008 of the Panchayat. After scrutiny and verification of documents submitted by applicants for consideration of appointment as Panchayat Teacher, a merit list was prepared by the Employment Unit. Finally the counselling was held on 14.08.2020 and four panchayat Teachers were appointed against different category, but the post of UR(F) category remained vacant. Subsequently, as per direction issued by the Education Department, counselling for employment in UR(F) category was held on 29.12.2010 in which only three candidates appeared. Amongst three candidates, the petitioner was selected and



employed vide memo no.2 dated 29.12.2010 taking into account the date of birth of the petitioner and one candidate, namely, Archana Kumari, as both have equal merit point i.e. 71.88. The respondent nos. 11 & 12 did not appear in counselling on the date fixed by the Department despite communication.

4. Learned counsel for the petitioner submits that being aggrieved by the employment of the petitioner, respondent no. 11 & 12 filed case no. 41/11 and case no. 34/11 before the District Teachers, Employment Appellate Authority, Sitamarhi, alleging inter alia that despite the fact that respondent no.11 has higher merit point than the petitioner, Employment Unit, Majorganj have ignored her candidature and selected the petitioner. Both the appeals were heard together and disposed of by a common order dated 15.11.2011 cancelling the employment of the petitioner without considering the facts that respondent no.11 did not participate in due procedure of selection in the present Panchayat and directing the Panchayat Secretary, Gram Panchayat Majorganj to held fresh counseling after advertising date and venue of the counseling, in a daily newspaper and also at public place and ensure appointment under unreserved UR(F) category after counseling. (Annexure-1 of this writ application). The impugned order dated 15.11.2011



passed by the District Appellate Authority, Sitamarhi has been assailed by the petitioner before this Court in C.W.J.C. No. 22505 of 2011, which was disposed of vide order dated 23.08.2017 with the observation and direction that the petitioner shall file an appeal before the State Appellate Authority within a period of thirty days from the date of the order, which shall be disposed of in accordance with law within statutory period.

5. Learned counsel further submits that during pendency of C.W.J.C. No. 22505 of 2011 filed by the petitioner, the respondent, the then Panchayat Secretary, Majorganj terminated the service of the petitioner vide its order contained in memo no. 05 dated 10.08.2012. (Annexure-2 of the writ application).

6. In the light of above-mentioned order dated 23.08.2017 passed by this Court, the petitioner filed appeal no. 356/2017 before the State Appellate Authority Bihar, Patna and the same has been rejected vide order dated 10.07.2019 by the State Appellate Authority, Bihar, Patna on the similar grounds taken by the District Appellate Authority, Sitamarhi. (Annexure-3 of the writ application).

7. Learned counsel further submits that during pendency of the appeal before the State Appellate Authority, the Panchayat Employment Unit has employed the respondent no.13, namely,



Bibha Kumari, who has second division in Intermediate, without giving notice to the petitioner.

8. Per contra, learned counsel for the respondents submits that in compliance of the order dated 15.11.2011 passed by the learned District Appellate Authority, Sitamarhi, the Panchayat Secretary, Gram Panchayat, Majorganj advertised in Daily Newspaper “Aaj” on 08.10.2012 for fresh counseling on the post of Panchayat Teacher against UR(F) category. The Mukhiya has also fixed the notice at the public place as well as Panchayat Bhawan. The counseling was held on 19.10.2012 at Panchayat Bhawan, but the petitioner did not appear in counseling. After completing the counseling, the respondent no.13 was selected and employment letter was issued vide letter no. 17 dated 19.10.2012. On the strength of the said employment letter, the respondent no.13 submitted her joining in the Primary School, Banaughiya Tola, Majorganj on 25.10.2012.

9. Having heard learned counsels for the parties and on perusing the material available on record, it appears that the petitioner did not appear in counseling held on 19.10.2012 despite publication of a fresh date for counseling in Daily Newspaper “Aaj” and notice board at Panchayat Bhawan, in



compliance of the order dated 15.11.2011 passed by the learned District Appellate Authority, Sitamarhi. Hence, her case for the appointment on the post of Panchayat Teacher cannot be considered.

10. Considering the rival submissions of the parties as well as the impugned orders passed by the Appellate Authorities, I do not find any merit in the present writ application. Accordingly, this writ application stands dismissed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.07.2024
Transmission Date	NA

