

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2511 of 2020

Neelam Kumari @ Nilam Kumari, Wife Of Sri Ghanshyam Kumar, Resident Of Village-Raghupur, Post Office-Bela (Sitalpur), Police Station-Dariyapur, District-Saran At Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna.
2. The Director, Primary Education, Education Department, Government of Bihar, Patna.
3. The District Magistrate, Saran at Chapra.
4. The Deputy Development Commissioner-cum-Chairman, District Education Establishment Committee, Saran at Chapra.
5. The District Education Officer, Saran at Chapra.
6. The District Programme Officer (Establishment), Saran at Chapra.
7. The District Programme Officer (Literacy), Saran at Chapra.
8. The Block Development Officer, Dariyapur, District-Saran at Chapra.
9. The Block Education Officer, Dariyapur, District-Saran at Chapra.
10. The Mukhiya of Gram Panchayat Raj, Sutihaar, Block-Dariyapur, District-Saran at Chapra.
11. The Panchayat Secretary, Gram Panchayat Raj, Sutihaar, Block-Dariyapur, District-Saran at Chapra.
12. Rita Kumari, Wife of Sri Shailesh Singh, Resident of Village-Rampur, Post Office-Sutihaar, Police Station-Derani, District-Saran at Chapra.
13. The Branch Manager of the State Bank of India, Sitalpur Branch, District-Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Kumar, Adv.
For the State		Mr. Madhukar Mishra, AC to SC-16
For Res. No. 12		Mr. Umesh Kumar Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 05-08-2024 Heard learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs:

“(i) For setting aside/quashing the order



dated 03.09.2019, passed by the State Appellate Authority, Education Department, Government of Bihar, Patna, in Appeal No. 418 of 2017, (as contained in Annexure 5) whereby and whereunder the learned State Tribunal has been pleased to set aside the order dated 28.12.2012 passed by the District Teacher Employment Appellate Authority, Saran at Chapra in Case No. 10 of 2012.

(ii) For commanding and directing the respondent authorities concerned to act upon as per direction of the order dated 28.12.2012, passed by the District Teacher Employment Appellate Authority, Saran at Chapra in Case No. 10 of 2012.

(iii) For any other relief or reliefs under the facts and circumstances of the case for the ends of justice.”

3. Learned counsel for the petitioner submits that in the year 2008 an advertisement, for appointment of Panchayat Teacher in Gram Panchyat, Sutihar under Dariyapur Block in Saran District, has been published under Bihar Panchayat Elementary Teachers (Employment and Service Condition) Rules, 2006 (For short, Employment Rules, 2006), as amended by the Amendment Rules, 2008, in which petitioner as well as



respondent no. 12 along with others have applied with their relevant required documents for their appointment in general category. On the basis of available documents of all applicants, the Niyojan Samiti shortlisted total ten applicants in which the petitioner was placed at serial no. 9 and respondent no. 12 was placed at serial no. 10. Petitioner went for counseling on 28.02.2009 at Panchayat Bhawan of Gram Panchyat, Sutihaar but she found the Panchayat Bhawan locked and no one was found present there. Thereafter, the petitioner went at the residence of the then Muhkiya and the Panchayat Sachiv of the Gram Panchyat, Sutihaar but they were not found present at their respective residence also. Thereafter, the petitioner waited at the venue i.e. Panchayat Bhawan of Gram Panchyat, Sutihaar from 10.00 A.M. to 5.00 P.M. but none of the member of Niyojan Samiti turned up and no counseling was held.

4. Learned counsel for the petitioner further submits that the petitioner immediately informed the Block Development Officer, Dariyapur (Respondent no. 8) on his Mobile phone no. 9430916646. The petitioner also filed representation before the Block Development Officer, Dariyapur (Respondent no. 8) but the petitioner could not get any information regarding her representation and all of a sudden on



14.08.2010, she came to know about appointment of respondent no. 12. He submits that since the name of respondent no. 12, namely, Rita Kumari was placed at bottom and the petitioner was placed above her name that is why the petitioner suspected some foul play on the part of respondent no. 10 and 11. Her husband demanded information/relevant documents from the Panchayat Sachiv of the Gram Panchayat, Sutihaar with regard to appointment of respondent no. 12 under Right to Information Act, but no information/documents was made available and the Panchayat Sachiv of the Gram Panchayat, Sutihaar has informed, vide his letter dated 21.12.2010, that supply of required information is not possible. Thereafter, the petitioner filed representation before the District Teacher Employment Appellate Authority, Saran at Chapra, which was allowed but the State Appellate Authority, Education Department, Government of Bihar, Patna has set aside the order passed by the District Teacher Employment Appellate Authority, Saran at Chapra.

5. A counter affidavit has been filed on behalf of the respondent no. 6 in which it is stated that the State Appellate Authority has rightly rejected the claim of the petitioner holding that the respondent no. 12 has higher marks than the petitioner,



therefore, the claim of the petitioner for employment is not justified.

6. Having heard learned counsel for the parties and on perusal of the materials on record, I am of the opinion that the State Appellate Authority has rightly rejected the claim of the petitioner. In the impugned order, the State Appellate Authority has found two main disputed issues in the appeal. The first issue is, whether a counselling was held on 28.02.2009. The relevant records of the Panchayat Employment Unit, Sutihaar were produced before the District Authority, which included the counselling list as well as the proceeding register showing that a counselling was held on 28.02.2009. Proceedings book showed the decision of the Panchayat Employment Committee, Sutihaar to hold counselling on 28.02.2009. But, learned District Authority, relying only on the statement of the private respondent and on the fact that no official respondents came to contradict the allegation made by the private respondent, came to the conclusion that no counselling was held on 28.02.2009. The aforesaid finding of the learned District Authority that no counselling was held on 28.02.2009, is not based on any material evidence or any statement made by any member of the Panchayat Employment Committee, Sutihaar, and



therefore, is not justified. The second issue is that whether the experience certificate of the private respondent is genuine. In this regard, respondent-District Education Officer (DEO), Saran has reported vide his letter no. 66 dated 10.06.2019, that from the records, it appears that the experience certificate issued to the private respondent Neelam Kumari is not valid.

7. The appellant has got 55.33% marks and the private respondent has got 55.55% marks in intermediate examination. Since, the experience certificate of the private respondent has been reported by DEO, Saran to be not valid, her merit marks comes to 55.55. Merit marks of the appellant, after adding 20 weightage marks, for her teaching experience, to her 498/900 marks obtained in Intermediate examination, becomes $(498+20=518/900=57.55)$. Thus, merit marks of the appellant is higher than the merit marks of the private respondent. Hence, even if it is presumed, though not proven, that no counselling was held on 28.02.2009, the claim of the private respondent for employment is not justified, on the ground that she has got less merit marks than the appellant.

8. Thus, learned District Authority has erred in holding that the private respondent has got higher merit marks than the appellant. Learned District Authority has also failed to



appreciate that the experience certificate of the private respondent is not valid and erred in canceling the employment of the appellant.

9. In view of the facts and circumstances as stated above and the discussions made in foregoing paragraphs, this writ application is dismissed.

(Anjani Kumar Sharan, J)

devendra/-

U			
---	--	--	--

