

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9070 of 2015

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Smt. Nilam Sinha Wife of Ramdeo Singh Resident of Village - Mahua
Singhrai, P.O. - Mahua, P.S. - Mahua, District - Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Department of Primary Education Government of Bihar, New Secretariat, Bihar, Patna.
3. The District Magistrate, Vaishali.
4. The District Education Officer, Vaishali.
5. The District Programme Officer Establishment, Vaishali.
6. The Block Education Officer, Bhagwanpur Block, District Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the Respondent/s : Mr. K. P. Gupta, GP-10
Mr. Virendra Kuar, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 9 13-03-2024 1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application for quashing the office order no. 8063, dated 31.10.2013, passed by the District Programme Officer (Establishment), Vaishali, whereby the appointment of the petitioner on the post of Assistant Teacher has been cancelled on the ground that the petitioner is having no disability and previously the certificate issued was not genuine.
3. Pursuant to advertisement for appointment of 34540



trained teachers, published in the year 2010, the petitioner was appointed as Assistant Teacher. According to the petitioner, she was having 40% disability (hearing impaired) and in support of which the petitioner had produced the disability certificate issued by the Patna Medial College and Hospital, Patna.

4. The disability certificate of the petitioner was sent to the Civil Surgeon, Vaishali, for scrutiny. The Civil Surgeon constituted a Medical Board and the petitioner was directed to appear before it. The finding of the Medical Board, dated 08.11.2012, in respect of the petitioner, is that she is not having any disability and the certificate issued to her previously is forged.
5. Learned counsel for the petitioner argued that the Medical Board, constituted by the Civil Surgeon, Vaishali, did not mention the disability percentage in the remarks column and also it did not follow the Clause-3 of the guidelines, dated 25.05.2010, at the time of verification of the disability certificate of the petitioner.
6. As per the guidelines, Audiometry Test was to be conducted by the Medical Board, but according to the petitioner, before arriving at the conclusion that the



petitioner is not falling under the disability category, Audiometry Test, with the help of equipment, was not conducted.

7. This Court, by its order, dated 20.03.2023, directed the All India Institute of Medical Science, Patna, to constitute a Medical Board of competent doctors to ascertain the disability (hearing impaired) of the petitioner.
8. In pursuance thereof, a Medical Board was constituted by the Director, All India Institute of Medical Science, Patna, and the petitioner was examined for ascertaining her disability (hearing impaired). The Medical Board of All India Institute of Medical Science, Patna, found that the locomotor disability of the petitioner is to the extent of 59% and hearing disability of the petitioner is to the extent of 42%.
9. It is not disputed that the petitioner was appointed against the post reserved for persons with disability and as per terms of selection, the persons having disability below 40% were not eligible for appointment.
10. From the report of Medical Board of All India Institute of Medical Science, Patna, it is crystal clear that the petitioner is having disability to the extent of 42% i.e.



more than 40% as required for selection.

11. Accordingly, this Court finds that the report of Medial Board, constituted by the Civil Surgeon, Vaishali, is not correct.

12. In the result, the cancellation of appointment of the petitioner on the ground that the petitioner is not having required disability percentage is also not sustainable.

13. Accordingly, the impugned office order no. 8063, dated 31.10.2013, is set aside and the respondents are directed to reinstate the petitioner on the post of Assistant Teacher forthwith with 50% back-wages, subject to the condition that the petitioner shall file an affidavit that she was not gainfully employed during this period.

14. With the aforesaid observation and direction, this application is disposed.

(Anil Kumar Sinha, J)

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