

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4759 of 2019

Mani Bhushan Singh S/o Brajnandan Singh, R/o Village- Parsarma, P.S.
Jamalpur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Darbhanga.
2. District Magistrate, Darbhanga.
3. District Program Officer (Establishment), Darbhanga.
4. Block Education Officer, Biraul, Darbhanga.
5. Employment Unit of Gram Panchayat Raj Nadai, Gora Bauram, P.O.- Gora Mansingh, P.S.- Jamalpur, District- Darbhanga.
6. Mukhiya Gram Panchayat Nadai, Gora Bauram, P.O.- Gora Mansingh, P.S.- Jamalpur, District- Darbhanga.
7. Panchayat Sachiv, Gram Panchayat Nadai, Gaura Bauram, P.O.- Gora Mansingh, P.S.- Jamalpur, District- Darbhanga.
8. Baidyanath Ram, S/o Keso Ram, Assistant Teachers in Middle School, Parsarma, P.O. Gore Mansingh, P.S.- Jamalpur, District- Darbhanga.
9. Kumari Manorma, W/o Sanjiv Kumar Singh, Assistant Teachers in Middle School, Parsarma, P.O. Gore Mansingh, P.S.- Jamalpur, District- Darbhanga.
10. Md. Wahab, S/o Md. Jan, Assistant Teachers in Middle School, Parsarma, P.O. Gore Mansingh, P.S.- Jamalpur, District- Darbhanga.
11. Sanjay Kumar Sahu, S/o Jagdish Sahu, Assistant Teachers in Middle School, Ganauni, P.O. Gore Mansingh, P.S.- Jamalpur, District- Darbhanga.
12. Arbind Kumar Singh, S/o Lakshmeshwar Prasad Singh, Assistant Teachers in Middle School, Ganauni, P.O. Gore Mansingh, P.S.- Jamalpur, District- Darbhanga.
13. Rajan Bishwas, S/o Kamla Kant Bishwas Assistant Teachers in Middle School, Ganauni, P.O. Gore Mansingh, P.S.- Jamalpur, District- Darbhanga.
14. Amarjeet Kumar Rai, S/o Jaleshwar Rai. Assistant Teachers in Middle School, Ganauni, P.O. Gora Mansingh, P.S.- Jamalpur, District- Darbhanga.
15. Anil Kumar Singh, S/o Mohan Prasad Singh, Assistant Teachers in Middle School, Nadai, P.O.- Gora Mansingh, P.S. Jamalpur, District- Darbhanga.
16. Kundan Kumari w/o Mukesh Kumar Singh, Assistant Teachers in Middle School, Nadai, P.O.- Gora Mansingh, P.S. Jamalpur, District- Darbhanga.
17. Rashmi Ranjan W/o Ram Naresh Singh, Assistant Teachers in Middle School, Nadai, P.O.- Gora Mansingh, P.S. Jamalpur, District- Darbhanga.
18. Meera Kumari, W/o Jaikant Rai, Assistant Teachers in Middle School, Nadai, P.O.- Gora Mansingh, P.S. Jamalpur, District- Darbhanga.
19. Arti Kumari, W/o Amarjeet Bishwas Assistant Teachers in Middle School, Nadai, P.O.- Gora Mansingh, P.S. Jamalpur, District- Darbhanga.
20. Thakur Reeta Kumari, W/o Anil Thakur, Assistant Teachers in Middle



School, Nadai, P.O.- Gora Mansingh, P.S. Jamalpur, District- Darbhanga.

21. Asha Devi, W/o Raman Jee Yadav, Assistant Teachers in Middle School, Nadai, P.O.- Gora Mansingh, P.S. Jamalpur, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Baidya Nath Thakur, Advocate
For the Respondent/s : Mr.Smt. Binita Singh (SC 28)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 09-02-2024

1. Heard learned counsel for the parties concerned.
2. The present writ application has been filed for quashing the order dated 20.11.2018, passed by the District Magistrate, Darbhanga in Miscellaneous case no. 85 of 2016, by which the prayer of the petitioner to cancel the appointment of respondents no. 8 to 21, who were appointed as Panchayat Shiksha Mitra and subsequently absorbed as Panchayaat Teacher by virtue of *Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (hereinafter referred to as “the Rules 2006”)*, has been rejected.
3. Brief facts giving rise to the present writ application is that pursuant to an advertisement for appointment on the post of Panchayat Shiksha Mitra (in short “P.S.M.”)in the year 2005, the petitioner submitted his application for the post of Panchayat Shiksha Mitra under



unreserved category on 20.04.2005. 15 seats were allocated to the Gram Panchayat Raj-Nadai in Gora Bauram circle of Darbhanga district, out of which, 04 seats were earmarked for unreserved male category. Merit list was published on 19.05.2005 and after counselling, appointment letters were issued to the selected candidates. Petitioner was not selected for appointment as Panchayat Shiksha Mitra as the petitioner has secured 62.99% marks in the intermediate examination.

4. The contention of the petitioner is that petitioner passed Graduation (Honours) examination on 16.05.2005, in which he has secured second division but his qualification of graduation has not been considered and no weightage mark of Graduation has been given to the petitioner on the ground that the application form was submitted prior to publication of Graduation result, i.e. on 20.04.2005. Aggrieved by his non-selection, petitioner submitted his grievance before the District Magistrate, Darbhanga on 21.05.2005.

5. The District Magistrate, Darbhanga, vide letter no. 4693 dated 11.10.2016 referred the matter to the District Education Superintendent, Darbhanga to look into the grievance of the petitioner and submit a report. The Block Education Extension Officer, Biraul, vide letter no. 18 dated



20.01.2007 submitted its report, after inquiry, stating therein that qualification of the petitioner before the application form was submitted was only intermediate having secured 566/700 marks and it is upon his qualification, the petitioner was given 15 weightage marks. The marks of selected candidates in the unreserved category was more than that of the petitioner, hence, his name was not considered for appointment.

6. The inquiry report was forwarded to the District Magistrate, Darbhanga but no action was taken. The petitioner thus moved before this Court in C.W.J.C. no. 2373 of 2007, which was disposed vide order dated 29.09.2010 with the observation that no direction can be issued by this Court for appointment of the petitioner on the abolished post of Panchayat Shiksha Mitra. However, petitioner was granted liberty to move before the District Teachers Employment Appellate Authority to find out whether there was any irregularity in selection process by the employment unit of concerned Gram Panchayat.

7. The petitioner moved before the District Teachers Employment Appellate Authority, Darbhanga in Case no. 79 of 2011, which was dismissed by order dated 05.09.2011 holding that after perusing the report submitted by Block



Education Officer, Gora Bauram and Sub Divisional Officer, Biraul, it appears that the appointment of Panchayat Shiksha Mitra in the Gram Panchayat- Nadai does not suffer from any irregularity and the allegation made by the petitioner is completely baseless.

8. Again, petitioner filed a writ before this Court in C.W.J.C. no. 9387 of 2013, which was disposed vide order dated 02.08.2016, with liberty to the petitioner to file a representation before the Collector, Darbhanga, who will examine the claim of the petitioner and take a final decision in accordance with law. Pursuant to the order of this Court, petitioner moved before the District Magistrate, Darbhanga by filing Misc. Case no. 85 of 2016 and the learned District Magistrate, after perusing the materials on record and hearing the parties, came to the conclusion that allegation made by the petitioner is baseless and without any substance and the selection process carried out by the employment unit of Gram Panchayat- Nadai for appointment of Panchayat Shiksha Mitra is valid and in accordance with the departmental instructions.

9. With regard to the claim of the petitioner that he has not been given the weightage of graduation marks, the



learned District Magistrate held that the contention of the petitioner is not valid because after perusing the application form submitted by him, it appears that the petitioner has himself mentioned his educational qualification as intermediate and not graduate as on the date of publication of notification and submission of application form. The petitioner applied under unreserved male category and since petitioner comes from general category, he can only be appointed against the post of general category which was filled with better rank candidates as per the merit list.

10. Learned counsel for the petitioner argued that there was irregularity in the appointment of Panchayat Shiksha Mitra and the petitioner was not given weightage marks of his graduation at the time of assessment of the percentage marks by the selection committee.

11. I have heard learned counsel for the parties and perused the materials on record. The argument of the petitioner is not acceptable firstly on the ground that as on the date of advertisement and at the time of submission of application form, the qualification disclosed by the petitioner in the application form was intermediate. The selection committee considered the marks of intermediate of the



petitioner by preparing the merit list, based upon declaration in the application form. Graduation result of the petitioner has been published, as per the date disclosed by him, on 16.05.2005, which is two days before the publication of merit list. The qualification attained by the petitioner after initiation of process of selection cannot be considered, inasmuch as candidate is required to possess all the eligibility criteria and qualification as on the date of publication of advertisement or at best on the date of filing of application form.

12. The contention of the petitioner is not acceptable for another reason also that since the post of Panchayat Shiksha Mitra stood abolished on 01.07.2006 after coming into force ***Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006***, no person can be employed, claim employment/ deemed employment as Panchayat Shiksha Mitra/ Panchayat Teacher retrospectively as held by a Division Bench of this Court in the judgment passed in the case of ***Smt. Renu Kumari Pandey & others v. The State of Bihar and others***, reported in ***2011 (4) PLJR 297 (DB)***. The aforesaid Division Bench judgment has been affirmed by Full Bench of this Court in the case of ***Kalpana Rani v. The State of Bihar and others***,



reported in **2014(2) PLJR 665**, wherein it has been held in paragraph no. 118 as follows :-

“118. Having thus given my anxious consideration, I am of the view that after 1.7.006, no person, who was earlier an aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his or her name figured in the panel of Panchayat Shiksha Mitra. The post of Panchayat Shiksha Mitra has been abolished with effect from 1.7.2006 and after abolition of the post, no one can be appointed on the post of Panchayat Teacher on the basis of his mere empanelment of Panchayat Shiksha Mitra. The view taken in the judgment of the Division Bench in the case of Smt. Renu Kumari Pandey (supra) is a good law. I will have no hesitation in holding that the earlier Division Bench judgment in the case of Kishori Prasad (supra), for the reasons indicated above, has not correctly decided the law and is, accordingly, overruled.”

13. In the present case, admittedly the petitioner was not appointed and working as Panchayat Shiksha Mitra (P.S.M.) as on 01.07.2006 i.e. at the time of conversion of P.S.M. as Panchayat Teacher. Accordingly, the petitioner has



no right to claim employment/ deemed employment as Panchayat Shiksha Mitra or has right to be absorbed in service as Panchayat Teacher, as per ***Rule 20(iii) of the Rules, 2006.***

14. Considering the aforesaid discussion, I find no merit in this writ application, accordingly, the same is dismissed.

(Anil Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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