

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4517 of 2019

Abhilasha Dwivedi wife of Sri Daya Shankar resident of Ward No. 1, Village-
Mahamadda, Police Station- Bajpatti, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education Government of Bihar, Patna.
3. The District Magistrate, Sitamarhi District- Sitamarhi.
4. The D.D.C.-cum- Chief Executive Officer, Zila Parishad, District- Sitamarhi.
5. The District Education Officer, Sitamarhi District- Sitamarhi.
6. The District Programme Officer Establishment, Office of D.E.O., Sitamarhi, District- Sitamarhi.
7. The Executive Officer, Nagar Parishad, Sitamarhi District- Sitamarhi.
8. The Chairman, Zila Parishad, Sitamarhi District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ayush Kumar, Adv. Mr.Kanishka Shankar, Adv.
For the Respondent/s	:	Mr.Jai Prabhat Kishore, AC to SC 13 Mr.Subodh Kumar, Adv. Mr.Shailendra Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 11-03-2024

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

2. The present writ application has been filed for issuance of
an appropriate writ/order/direction commanding the respondents
to appoint the petitioner as Librarian in High School within
Sitamarhi Zila Parishad in pursuance of her counseling dated
11.10.2014 and further to set aside the decision of the panel



preparation Committee dated 15.04.2017/07.06.2017 under the chairmanship of the Chairman, Sitamarhi Zila Parishad who held that all the posts of unreserved category has been filled up (by appointing reserved category candidates against un-reserved posts). The alternative prayer is to appoint the petitioner against vacant post of Librarian in any other school and grant age relaxation for future vacancies.

3. Learned counsel for the petitioner submits that in the year 2006, the Government of Bihar came out with notifications relating to Rules for appointment of teachers/librarians in schools run under the Municipal body/Zila Parishad etc. In the year, 2008, the Government of Bihar came out with advertisement for appointment of 2596 Librarians in various schools. Out of that 39 posts were for schools run by the Zila Parishad, Sitamarhi. Out of those 39, 20 posts should have been for unreserved (General) categories but only 19 were shown as unreserved. Petitioner being an eligible candidate having qualification of B.Com (Hons.) and B.L.I.S. from L.N.M.U. applied for the post of Librarian on 10.11.2008 under various local bodies like Nagar Panchayat Pupri, Nagar Panchayat Bairgania, Nagar Parishad Sitamarhi and Zila Parishad Sitamarhi. The Zila Parishad prepared a merit list of 241



candidates who had applied for appointment as Librarian in High Schools under its control. The name of the petitioner figured in that list. However, the selection process was stopped and again restored in 2011 and 2014-2015. Instead of filling up all the sanctioned vacant posts of Librarians in one go, the Zila Parishad started filling up the posts in phased manner. In the first phase appointment was made on 08.03.2010 on 10 posts, 16.12.2011 on 7 posts, 05.08.2014 on 10 posts and 17.10.2014 on 6 posts in order to appoint persons on pick and choose basis contrary reservation roster.

4. It is further submitted that the petitioner was called for interview/counseling on 11.10.2014 i.e. in the fourth round of counseling and her name figured at serial no.17 of the counseling attendance register dated 11.10.2014 and despite the counseling of the petitioner on 11.10.2014, the petitioner was not appointed against vacancy in unreserved category. A large number of candidates belonging to reserved category were appointed against unreserved posts by adopting backdoor method. The petitioner filed a representation before the D.P.O. Establishment for her appointment which was forwarded to the D.D.C.-cum-Chief Executive Officer, Zila Parishad, Sitamarhi vide letter no.615 (DEO) dated 24.08.2015. It was mentioned in



that letter that 12 posts were vacant. Since a large number of bonafide candidates of unreserved category who had participated in the counseling for the post of Librarian in Sitamarhi and other Zila Parishad Schools approached this Hon'ble High Court by filing numerous writ petitions seeking their appointment. Some of such writ petitions were numbered as C.W.J.C. No.17362 of 2015; C.W.J.C. No.7704 of 2016; C.W.J.C. No.14722 of 2017; C.W.J.C. No.18060 of 2017. The C.W.J.C. No.7704 of 2016 was disposed of by the order dated 08.09.2016 with an observation that the respondents should complete process after duly verifying vacancy position keeping in mind the statements made by the petitioner and entire exercise is to be completed within 3 months (annexure-P5 to the writ application). In pursuance of the order passed in C.W.J.C. No.7704 of 2016, the Panel Preparation Committee met on 15.04.2017 and 07.06.2017 and prepared a minutes of the meeting dealing with various lots of selection process/appointments of Librarians made in the Zila Parishad Sitamarhi schools.

5. Learned counsel for the petitioner further submits that from a bare perusal of the Minutes of the meeting, one thing became apparent that a number of reserved category candidates



have been appointed against unreserved posts. As against 19 posts of General Category (although there should have been 20) only 13 including one female was filled up from unreserved category. One Rajesh Kumar belonging to B.C. category was appointed on unreserved seat on 16.12.2011, Nitesh Kumar (B.C.), Dharendra Kumar Yadav (B.C.), Jitendra Kumar (B.C.) and Binod Kumar (B.C.) were appointed on 05.08.2014; Ravindra Kumar (B.C.) and Chandra Bhushan Prasad Singh were appointed on 17.10.2014. The total number exceeded 19 only because two general category candidates resigned and one did not join. Thus, out of 19 general seats, six are being occupied by the B.C. category candidates which is much beyond their percentage of reservation, a copy of the minutes of the meeting is enclosed as Annexure-P6. The stand taken by the panel preparation Committee under the Chairmanship of the Chairman, Zila Parishad, Sitamarhi has already been challenged in C.W.J.C. No.18060 of 2017 and the said writ application was dismissed on 09.07.2019 by the co-ordinate bench of this Court. It is further submitted that there is violation of the reservation policy of the Government of Bihar and there is also violation of Articles 14 and 16 of the Constitution of India.

6. A counter-affidavit is filed on behalf of the respondent



no.4 in which, it is stated that in the year, 2008, the Government of Bihar came out with advertisement for appointment of 2596 Librarians in various schools of the State, out of which, 39 posts were allotted to the schools run by Zila Parishad, Sitamarhi and such 39 posts were allotted to different categories in the manner i.e. UR-19, BC-05, EBC-07, SC-06, BCF-01 and ST-01. Pursuant to this advertisement, a number of candidates including the petitioner had submitted their applications for appointment on the post of Librarian in Sitamarhi District and accordingly a panel (annexure-A to the writ petition) was prepared. As per proceeding of the meeting of the panel preparation committee, Sitamarhi held on 07.06.2017, it is quite clear that appointment against 33 posts of Librarians in Sitamarhi district were completed in 4 Four phases on the basis of seniority in merit list prepared category wise in accordance with reservation policy. Number of candidates appointed in the 1st, 2nd, 3rd, 4th and 5th phase were 10, 07, 10, 06 respectively i.e. in total 33 candidates. All the 19 posts admissible to the candidates belonging to unreserved category had already been filled up in the above mentioned four phases of appointment according to seniority in general merit list but due to lower marks of 58.49% of the petitioner than that of 65.28 % marks of



the last candidate of UR-category namely Archana Kumari, the petitioner could not succeed and was not appointed.

7. Having heard the rival submissions of the parties and considering the aforementioned facts and circumstances of the case, I do not find any infirmity in the decision of the panel preparation Committee dated 15.04.2017/07.06.2017 as the petitioner secured lower marks than the last selected candidate of UR-category and hence, she was not appointed. There is no merit in this writ application.

8. Accordingly, it is hereby dismissed.

(Anjani Kumar Sharan, J)

pallavi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.03.2024
Transmission Date	N.A.

