

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3329 of 2024

Md. Faiyaz Chand, aged about 44 years, Male, Son of Md. Iftekhar Ahmad, Resident of Village-Iman Saraia, P.S.-Shahpur Patori, Samastipur, Bihar- 848504.

... .. Petitioner/s

Versus

- 1. The State of Bihar through Principal Secretary, Education Dept Government of Bihar, Patna.
- 2. The Chief Secretary, Department of Education, Government of Bihar, Patna.
- 3. The Secretary, Bihar Public Service Commission, Bihar, Patna.
- 4. The Joint Secretary, Bihar Public Service Commission, Patna, Bihar.
- 5. The Examination Controller (TRE-3) Bihar Public Service Commission, Patna, Bihar.
- 6. The Director Secondary Education, Govt. of Bihar, Patna.
- 7. The Director Higher Secondary Education, Government of Bihar, Patna.
- 8. The Addl. Chief Secretary, Education Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :		
For the Petitioner/s	:	Mr. Jyoti Shankar, Advocate Mr. Madhu Gupta, Advocate
For the State	:	Mr. Ravish Chandra, AC to SC-6
For the B.P.S.C.	:	Mrs. Parul Prasad, Advocate Mr. Aditya Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 16-07-2024

Heard Mr. Jyoti Shankar, learned counsel appearing on behalf of the petitioner; Mr. Ravish Chandra, learned AC to SC-6 appearing on behalf of the State and Mrs. Parul Prasad, learned counsel appearing on behalf of the B.P.S.C.

2. The petitioner has filed this writ petition challenging the Advertisement No. 22 of 2024 dated 07.02.2024 contending that it is contrary to regulation no. 01-02/2023-743 dated 10.04.2023 issued by the respondent no.7- the Director Higher Secondary Education, Government of Bihar, Patna.

3. The regulation mentioned hereinabove by the petitioner, is in fact, a Rule called the “Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceedings and



Service Conditions) Rules 2023, (hereinafter, referred to as ‘the Rules, 2023’).”.

4. The petitioner also contends that under the said Rules the upper age limit relaxation of 10 years may be availed by any candidate for three chances of selection. The petitioner further contends that in the Advertisement No. 22/2024, there is no provision for relaxation of upper age limit for the candidate of EBC categories for the second or third chance of selection.

5. The respondents have contested the case by filing two sets of counter affidavits by the respondent Nos. 3 and 5 and respondent No. 6 respectively.

6. In the counter affidavit filed, it has been contended that under rule 5(v) of the Rules, 2023 the upper age limit of the candidates may be relaxed in the first transaction of appointment after coming into force of the Rules on 10.04.2023. It has been further contended in the counter affidavit filed that Advertisement No. 27/2023, which was issued by the B.P.S.C, after the Rules had come into force, the petitioner had participated by availing the age relaxation granted by the competent authorities.

7. The respondents in the counter affidavit, therefore, contend that since the petitioner has already participated in the



earlier Advertisement No. 27/2022 by availing the relaxation of maximum age limit granted by the competent authorities, the petitioner's upper age limit cannot be further relaxed to participate in the subsequent Advertisement No. 22/2024.

8. The Rule 5(v) of the Rules, 2023 which provides for age relaxation says as under:-

“5 (v) Age.- The minimum age for appointment as School teacher in Primary and Middle School shall be minimum 18 years on 1st of August of the appointing year and the maximum age for each category shall be the same as notified by the State Government (General Administration Department) from time to time. Similarly, the minimum age for appointment as School teacher in Secondary and Senior Secondary School shall be minimum 21 years on 1st of August of the appointing year and the maximum age for each category shall be the same as notified by the State Government (General Administration Department) from time to time. Relaxation of 10 years in the upper age limit in the first transaction of appointment after the enactment of these Rules shall be provided to such trained candidates who have qualified the Teachers Eligibility Test prior to enactment of these Rules. Relaxation of 10 years in the upper age limit in the first transaction of appointment shall be provided to the Teachers Eligibility Test qualified trained candidates in such subject or subject-group in which Teachers Eligibility Test have not been conducted, prior to enactment of these Rules.

Provided that the State Government may take separate decision for relaxation in the upper age limit for teachers appointed and working under the Panchayati Raj institution and Nagar Nikay institution.”



9. I have perused the Rule 5(v) of the Rules, 2023, which provides for the minimum age for appointment as School teacher as well as the relaxation of upper age limit. On perusal thereof, I find that such relaxation in upper age limit is limited to first transaction of appointment after the enactment of these Rules.

10. Since, the petitioner had participated in an earlier Advertisement No. 27/2023 by availing the relaxation of upper age limit granted by the competent authorities, I am of the view that relaxation of the petitioner’s upper age limit cannot be granted by the respondent authorities, as the provisions of Rule 5(v) of the Rules, 2023 limits such a relaxation on the upper age of the candidates to the first transaction of appointment only.

11. In such view of the matter, there is no merit in this writ petition, and the same stands dismissed.

(Nani Tagia, J)

Siddharth
Sagar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.07.2024
Transmission Date	N/A

