

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4542 of 2020

1. Subhash Chandra Singh S/o Sri Nagina Singh R/o Village- Dayalpur, P.O.- Sangitbaita, P.S.- Kahalgaon, District- Bhagalpur at present working as Assistant Teacher in Sri Bal Subodhini Pathshala, Sujaganj, Bhagalpur.
2. Pradip Kumar Chaudhary S/o Late Mahendra Chaudhary R/o Village Gola Ghat, P.S. Sultanganj, District Bhagalpur, presently posted as Assistant Teacher, Jagarnath Middle School, Nayabazar, Bhagalpur.
3. Sunita Kumari D/o Jagarnath Chaudhary R/o Village- Matti, P.S. Sultanganj, District- Bhagalpur, presently posted as Assistant Teacher, Middle School Gangti, Daudbat, Jagdishpur, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
2. The Director, Primary Education, Govt. of Bihar, New Secretariat, Patna.
3. The District Education Officer, Bhagalpur.
4. The District Programme Officer (Establishment), Bhagalpur.
5. The Managing Committee, Sri Bal Subodhini Pathshala, Sujaganj, Bhagalpur, through its Secretary.
6. The Head Master, Sri Bal Subodhini Pathshala, Sujaganj, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate
For the Respondent/s : Mr. Prabhakar Jha (GP-27)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 05-12-2024 In the instant writ petition, main prayer of the petitioners is that the appeals/representations filed by the petitioners vide Annexure-18 & 19 of the writ petition before the Principal Secretary, Education Department, Government of Bihar, Patna may be disposed of at an early date giving opportunity to the petitioners of hearing.

2. Now the petitioners have come up with a supplementary affidavit filed on 03.12.2024 stating inter-alia



that on the self same facts and circumstances, another teacher, namely, Smt. Shanti Banka of Saryu Devi Mohan Lal Balika Madhya Vidyalaya, Mirjanhat, Bhagalpur filed a writ petition challenging the arbitrary and capricious action on the part of the respondents for granting regular salary to her and a Coordinate Bench in CWJC No.14347 of 2010 (Annexure-20) allowed the said writ petition quashing the order of the District Superintendent of Education, Bhagalpur, the petitioners service was treated as approved and the respondent Authority was directed to issue all consequential benefits to her.

3. It is submitted on behalf of the petitioners that in the aforesaid supplementary affidavit that the fact of the instant writ petition is identical with CWJC No.14347 of 2010.

4. In the instant case, by an order dated 04.03.2017, the Director, Primary Education rejected the approval for appointment of the petitioners on the ground stated therein. Basically, the said order is under challenge.

5. It is submitted by the learned Advocate for the petitioners that the concerned school is a Government aided school and the governing body of the school had appointed the petitioners after following due procedure on the vacancies which have fallen vacant. He submits that appointment of the



petitioners was earlier approved by the Superintendent of Education but subsequently, the same was cancelled by the Director, Primary Education. The petitioners were working as Assistant Teacher in the said school since 16.01.2006, 17.01.2006 and 19.01.2006 respectively.

6. Further case of the petitioner No.2 and 3 is that they left the service of the school w.e.f. 20.02.2012 and 13.02.2012 respectively. Therefore, their claim is relating to the arrears from the date of joining to the date of leaving the job. So far as petitioner no.1 is concerned he is still continuing. There is absolutely no dispute on the point that the governing body selected the petitioners on the basis of reservation and roster points, so there is no ambiguity in respect of their selection.

7. Counter affidavit has been filed on behalf of the respondent Nos. 4 & 5, it is contended on behalf of the respondents that in the selection process of the petitioners the Managing Committee did not follow the roster point and the reservation policy was not adhere too, therefore, the decision of this Court passed in CWJC No.14347 of 2010, which was affirmed in LPA No.1812 of 2012 is not at all applicable under the facts and circumstances of the instant case.

8. In the aforesaid writ petition and the LPA decided



by the Court, two posts were advertised mentioning their categories, whereas in the present case the advertisement itself does not mention any category, therefore, the Director, Primary Education rejected the appointment of the petitioners. There is no illegality in the said order where reservation policy has not been followed the recruitment procedure cannot be upheld.

9. Having heard, the learned counsels for the parties. It appears from Page No.31 of the writ petition being the advertisement dated 31.03.2005 published in the newspaper “Hindustan” that it was clearly declared that out of three advertised posts, two posts were reserved for General Candidates and one post was reserved for Schedule Caste Candidates. Therefore, the contention made by the respondents that reservation policy was not applied in the instant advertisement and following appointment cannot be considered. It is also ascertained from the writ petition that the petitioner No.2, namely, Pradip Kumar Chaudhary, was a schedule caste candidate, who was appointed in the said selection process.

10. In view of such circumstances and having heard the learned counsels for the parties, this Court finds that there is no dispute in respect of reservation policy followed by the Managing Committee of the concerned school for appointment



of the petitioners in the advertised posts. It is not in disputed that out of three candidates, two candidates belong to UR Category and one candidate belong to SC Category. Therefore, it can be assumed that there was substantially compliance of the reservation policy by the governing body of the school in appointment of the petitioners. The impugned order shows that this is the sole ground for holding the appointment of the petitioner bad. Since, this Court finds that there was substantial compliance of the reservation policy in appointment of the petitioners, the sole ground for holding their appointments as bad vacancies cannot be substance.

11. For the reasons recorded herein-above, the writ petition is allowed, the impugned order passed by the Director, Primary Education, on 04.03.2017 (Annexure-1), so far as it relates to the petitioners is quashed.

12. Consequently, the petitioners services shall be treated as approved and they will be entitled to consequential benefits regarding their appointment and other emoluments.

(Bibek Chaudhuri, J)

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