

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9945 of 2019

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Sunila Kumari D/o Sri Bhagwan Ram, W/o Sunil Kumar Suman R/o Village-
Bhavdeva, P.S. Simri Bakhtiyarpur, District-Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, HRD, New Secretariat, Patna
2. The District Magistrate Saharsa
3. The Deputy Superintendent of Education Saharsa
4. The Block Development Officer Simri Bakhtiyarpur, Saharsa
5. The Block Education Extension Officer Simri Bakhtiyarpur, Saharsa
6. District Teachers Appointment Appellate Tribunal Saharsa, through its member officer, Saharsa
7. The Mukhiya Gram Panchayat Raj Mahammadpur P.O. Bhavdeva, Via-Chapraonkothi, Simri Bakhtiyarpur, Saharsa
8. The Panchyat Secretary Gram Panchayat Raj Mahammadpur, P.O. Bhavdeva, Via-Chapraonkothi, Simri Bakhtiyarpur, Saharsa
9. Chanda Kumari D/o Uttam Paswan R/o Village-Rampur, P.S. Simri Bakhtiyarpur, District-Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prakash Chandra Jha, Mr. Amarjeet Prabhakar, Mr. Rakesh Chandra, Advocates.
For the Respondent/s	:	Ms. Namrata Singh, AC to Ex GA-12
For Respondent No. 9	:	Mr. Shailendra Kumar Singh, Mr. Rajeev Kumar Singh, Mr. Prabojot Singh, Advocates.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

7 22-04-2024 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for Respondent No.9.

2. The present writ petition has been filed for the
following relief(s):-

(i) Whether the entire
action/inaction of the respondents are



arbitrary and required interference by this Hon'ble Court?

(ii) Whether the both the tribunals below measurably failed to consider the object of the Act and the order passed by them are arbitrary ?

(iii) Whether both the courts are erred in law as they given finding that the petitioner has not appeared in the Counselling and she has also not filed her grievances before the appropriate authority within the time specified and they completely ignored the annexures annexed in the petition filed by the petitioner before both the authorities and the error s apparent on the face of the record and required interference by this Hon'ble Court?

(iv) Whether the order impugned are bad in law as the reasoning given in the order impugned are contrary to the material available on the record and the finding are perverse?

(v) Other ground shall be placed at the time of hearing of this case.

3. A complaint was lodged before the District Authority alleging that the appellant had filed an application for her employment/engagement as Panchayat Teacher in Gram Panchayat-Mahammadpur in the district of Saharsa. She belongs to SC(F) category. Her position in the merit was at serial no.13. She has secured 53.44% marks. Although she appeared in the counselling, but was not selected/engaged. Instead, respondent no.9 (Chanda Kumari) was given the employment on 10-03-2007. She made an application before the Block Development



Officer (B.D.O), Simri, but no heed was paid. In the circumstances, she filed a writ petition before Hon'ble High Court *vide* C.W.J.C. No.7352 of 2008 challenging the employment given to the respondent no.9, Chanda Kumari. A Bench of the Hon'ble Patna High Court, *vide* order dated 06-05-2008 (Annexure-A) disposed of the writ petition permitting the appellant to approach the B.D.O. for redressal of her grievance. During the relevant time, when the order was passed by the Hon'ble High Court, the B.D.O. was the competent authority to address such grievance. It is stated that she made such an application on 06-06-2008 before the B.D.O., but the same remained unattended. Thereafter, she filed Appeal No.221/2009 before the District Authority, wherein notices were issued to all. The private respondents appeared and contested the case on several counts. Thereafter, the petitioner moved before the State Appellate Authority and the State Appellate Authority dismissed the appeal of the petitioner stating therein that the petitioner has not appeared for counselling along with the documents/educational certificates and the date of counselling claimed by the petitioner was also incorrect. The District Authority also found that in the light of the order of the Hon'ble High Court dated 06-05-2008, granting her liberty to approach



the B.D.O. within four weeks, she had not filed any such application. Subsequently, the District Authority considered the merit of the case of the petitioner and rejected her appeal. The State Appellate Authority further held that the employment to the petitioner was given in the year 2006-07, but the writ petition was filed in 2008. She did not file complaint before the B.D.O. within four weeks as directed by the Hon'ble High Court. In the facts and circumstances of the case, the State Appellate Authority rejected the prayer of the petitioner and dismissed the appeal.

4. A rejoinder on behalf of the petitioner has been filed wherein she has stated that she was selected on merit and her name found place at Serial No. 13 of the 3rd selection list duly signed on 05.03.2007 by Panchayat Sachiva (Annexure P/12).

5. From perusal of description mentioned at the bottom of the said Selection List, it appears that selected/listed candidates have to turn on 08.03.2007 and 09.03.2007 for placing their consent along with original certificates/mark-sheets/necessary documents etc. If it is not done the claim of selection/appointment would stand cancelled. The authority did not wait till 09.03.2007 for facilitating opportunity to the



selected candidates to turn up, rather on the same day published 4th selection list signed by Panchayat Sachiva on 05.03.2007 wherein at Serial No. 13 (in place of petitioner) name of Chanda Kumari (Private Respondent No. 9) appeared (Anneuxre P/13).

6. Learned counsel for the petitioner submits that the aforesaid facts are clear manifestation of malicious and perverse attitude of the Panchayat Sachiva to oust genuine candidate from the selection process for appointing those who have managed the Panchayat Sachiva and other authority subjected for selection.

7. Learned counsel further submits that the relevant facts showing abrupt anomalies/irregularities is that even on monthly salary sheet of Chanda Kumari, it is reflecting that her service has been considered from 10.03.2007 whereas she joined on 12.03.2007 (Annexure-P/16).

7.1. Counter affidavit has been filed on behalf of Respondents No. 3 & 5 wherein it has been stated that after expiry of stipulated time limit of four weeks, the petitioner filed her complaint before the District Teachers Appellate Authority, Saharsa (DTTA) on remand of her writ petition No. 7352/08 dated 06.05.2008 by the Hon'ble Court.

8. The petitioner filed the Appeal before DTAA,



Saharsa *vide* Appeal No. 22/99 and the District Teachers Appellate Authority rightly rejected the claim of the petitioner and the State Appellate Authority also confirmed the order of District Teachers Appellate Authority.

9. Learned counsel appearing for Respondent No. 9 submits that the District Teachers Appellate Authority as well as State Appellate Authority rightly rejected the claim of the petitioner on the ground that when Hon'ble High Court *vide* its order dated 06.05.2008 granted liberty to the petitioner to approach the BDO, Simri, Bakhtiyarpur within four weeks, she did not file any such application and the petitioner had not appeared for counselling along with documents/educational certificates and that the date of counselling claimed by the petitioner was also incorrect.

10. Learned counsel for Respondent No.9 further submits that both the appellate authorities have passed the orders on the basis documents available on record and therefore, there is no requirement of interference with the orders of appellate authorities.

11. Considering the aforesaid facts and circumstances, submission made on behalf of the parties and the fact that authority had to wait till 09.03.2007 for facilitating opportunity



to the selected candidate to turn up rather published 4th selection list on 05.03.2007, this Court set aside the order dated 27.03.2018 passed by State Appellate Authority in Appeal No. 217/2017 as well as order dated 23.08.2011 passed by District Authority in Appeal No. 22 of 2009. The concerned authority is directed to appoint the petitioner as Panchayat Teacher instead of private Respondent No.9 and give all the consequential benefits due to her from the date of her joining.

12. The instant writ application stands allowed.

(Anjani Kumar Sharan, J)

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