

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.225 of 2021

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Savita Kumari Wife of Sri Sanjay Yadav Resident of village and Post-
Rajaura, P.s.- Mufasil, Begusarai, District- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education,
Government of Bihar, Patna
2. The Director, Primary Education, Department of Education, Government of
Bihar, Patna
3. The State Appellate Authority, 5, C.-D Niyojan Bhawan, Bailey Road, Patna
through its Chair person (Administrative)
4. The District Magistrate, Begusarai, District- Begusarai
5. The District Programme Officer (Establishment) Begusarai, District-
Begusarai
6. The District Education Officer, Begusarai, District- Begusarai
7. The District Teacher Employment Appellate Authority, Begusarai through its
presiding Officer,
8. The Block Development Officer, Garhpura Block P.S. Garhpura, District-
Begusarai
9. The Block Education Officer, Garhpura Block P.S.- Garhpura, District-
Begusarai
10. Panchayat Secretary, Gram Panchayat Koraiya, P.o.- Koraiya, P.s.- Garhpur,
District- Begusarai
11. The Mukhiya Gram Panchayat Koraiya, P.o.- Koraiya, P.s.- Garhpur,
District- Begusarai
12. Ruby Kumari wife of Anil Kumar Resident of village- Kanausi, P.o.- Dunhi,
P.s.- Garhpura, District- Begusarai

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Durga Nand Jha, Advocate
For the State	:	Mrs. Binita Singh, SC-28
For the Respondent No.12 :	:	Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date :19-03-2024

Heard learned counsel for the parties.

2. The petitioner by the present writ application seeks



the following Reliefs:-

(i) Issuance of a writ in the nature of certiorari for quashing the order dated 7.2.2020 passed by the Chairperson of State Appellate Authority Patna in Appeal No. 162 of 2018 whereby and whereunder the Appeal of the petitioner has been disallowed and order dated 12.11.2014 passed by District Teacher Employment Appellate Authority, Begusarai in case no. 123/2011 has been upheld.

(ii) Issuance of a further writ in the nature of certiorari for quashing the order dated 12.11.2014 passed by the Presiding Officer, District Teacher Employment Appellate Authority, Begusarai in Case No. 123/2011 whereby and whereunder the appointment of petitioner on the post of Panchyat Teacher in Primary School, Harakhpura vide letter dated 13.8.2010 has been declared as illegal and Panchayat Employment unit Koraiya had been directed to take decision for employment of Ruby Kumari, Respondent no.12 within 21 days and submit compliance report.

(iii) Issuance of further writ in the nature of certiorari for quashing the order contained in memo no.04 dated



30.10.2015 issued under the signature of B.D.O. Garhpura whereby and whereunder employment of petitioner has been rejected and Headmaster of the School has been directed to remove the petitioner from her service from the next date of order which is without jurisdictional order.

(iv) Issuance of further writ in the nature of certiorari for quashing the letter no. 8/Ni dated 3.11.2015 issued under the signature of B.D.O. Garhpura Block whereby and where under Respondent no. 12 has been appointed in upgraded Middle school, Harackpura without jurisdiction.

(v) Issuance of a consequential writ in the nature of Mandamus directing an commanding the official respondents to re-instate the service of the petitioner to her post with back wages as the petitioner was validly appointed after following all the procedures on the basis of merit list prepared and since then she had been working without any objection from any corner until order dated 30.10.2015 was issued.

(vi) Issuance of an appropriate holding and declaration that since the petitioner was appointed under the Rule known as Bihar Panchayat elementary teacher;



employment and service condition Rule 2006 which was superseded/repeated by Rules 2008 as framed on 25.8.2008 and counseling was held on 28.2.2009 in which Respondent no. 12 had not participated or could not participate but she did not challenge the said counseling and for the first time Respondent no. 12 filed Appeal no. 123/11 on 14.3.2011 is after more than two years instead 30 days as provided under clause Kha (iv) of Notification dated 23.10.2008 without explaining the inordinate delay but case no, 123/11 was entertained whereas same District Appellate authority had dismissed another Appeal 21/13 vide Judgment contained in memo no. 128 dated 20.10.15 on the ground of delay and thus the order dated 12.11.2014 passed in case no. 123/11 is illegal and is fit to be set aside/quashed.

(vii) Issuance of an appropriate declaration that both the Authorities have illegally held that Uttar Madhyama certificate is not valid for appointment of teacher as equivalency of Uttar Madhyama with Intermediate was not disputed and in amended Rule 2008 language based degree has been confined to Moulvi and up shastri not Uttar Madhyama merely because Uttar Madhyama certificate is not



at par with the degree of up shastri awarded by Sanskrit Universities is as much as Uttar Madhyama Certificate is not based on Language as the petitioner had opted Mathematics, English, Computer and thus Utter Madhyama cannot be said as language based certificate and it has there-fore, not excluded in the Rules 2006 as amended in 2008 and thus both the orders contained in Annexures 1 and 2 are bad in law and are fit to be quashed/set aside and petitioner is fit to be re-instated to her post.

(viii) Issuance of an appropriate holding that by Rule-4 of amendment Rules-2008 the provisions made under Rule 8(k)2 was amended but eligibility fixed for Panchayat teachers was not amended and language based degree was confined to Moulvi and upshastri and Utter Madhyama was not shown as language based certificate and thus the findings arrived at by both the Appellate Authorities are based on no Rule, evidence, Circular thus those are fit to be set aside and petitioner is fully entitled to be, re-instated to her post with all back wages and consequential benefits.

(ix) Any other relief or reliefs be granted to petitioner to which she is found to be



entitled to.

3. It appears that in the year 2008, the Gram Panchayat Raj, Korai issued advertisement for filling up the five posts of Panchayat Teacher. The petitioner, having the requisite qualification, applied for the same and appeared in the counselling on 28.02.2009. The petitioner has passed the course of Uttar Madhyama, which as per the petitioner, equivalent to Intermediate qualification. The petitioner was appointed as Panchayat Teacher and posted in Upgraded Middle School, Harkakpur vide letter dated 13.08.2010 and her joining was accepted by the Headmaster of the School. One Rubi Kumari (respondent no.12) filed a complaint bearing Complain Case No.123 of 2011 dated 14.03.2011 before the District Teacher Employment Authority, Begusarai submitting that although she had scored 75.88% in the merit list but was not allowed to participate in the counselling on 28.01.2009 and other candidates being lower in merit list had been selected for the respective posts.

4. Before the District Teacher Employment Authority, Begusarai both the parties appeared and made their submissions and the District Teacher Employment Authority vide order dated 12.11.2014 hold that the employment of the petitioner is illegal and directed to appoint respondent no. 12 in her place. The



reason given for declaring the employment of the petitioner as illegal that the petitioner obtained Uttar Madhyama Degree from the Rashtriya Sanskrit Sansthan, New Delhi is not recognized and eligible qualification equivalent to Intermediate for the purpose of employment to the post of Panchayat/Block Teacher.

5. Being aggrieved with the order dated 12.11.2014, the petitioner filed an appeal, bearing Appeal No. 162/2018, before the State Appellate Authority and the State Appellate Authority by a reasoned and speaking order dated 07.02.2020, giving all the facts and circumstances of the case and various orders passed by this Court and the Hon'ble Supreme Court, rejected the claim of the petitioner. Hence, this writ petition.

6. After going through the case of the petitioner, in my view, the moot question involved in this writ petition is, as to whether the Uttar Madhyama certificate issued by the Rastriya Sanskrit Sansthan, New Delhi is recognized by the Bihar Government and it is equivalent to Intermediate or not.

7. This Court way back in the year 2012 vide order dated 16.04.2012 passed in C.W.J.C. No. 7313 of 2012 has been pleased to hold as under:

“..... Recognition of an Institution is a positive and definite act which must appear from any specific



order/notification/resolution of the Government. No Institution can stand recognized by the State on presumption or assumption. Only because name of the Institution was not included in the list contained in the said order of the Department dated 25.08.2008, it cannot be accepted that the same shall stand recognized. For establishing his case petitioner was required to produce specific Government Resolution/ Order/Circular recognizing the Institution during the period petitioner had joined the course and/or appeared in the examination conducted by the Institution and got his degree. There is nothing on record to show that this Institution had been recognized by the State Government by any specific act.....”

8. The prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.

9. In view of the facts aforesaid, this writ petition



merits no consideration and is dismissed accordingly.

(Anjani Kumar Sharan, J)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	28.02.2024
Uploading Date	20.03.2024
Transmission Date	NA

