

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2378 of 2021

Punam Kumari W/o Shri Prakash Chandra Himanshu, D/o Ram Ratan Thakur
Resident of Village and Post -Daulatpur, Police Station- Masaurhi, District-
Patna, Bihar. Presently posted as Niyojit Techer at Primary School, Rani
Bazar, Kauwakol, District-Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary Education Department (Primary Education) Government of Bihar, 1st Floor, Vikas Bhawan, Bailey Road, Patna.
3. District Magistrate District-Nawada.
4. District Superintendent Nawada.
5. Chairman, Panchayat Employment Unit-cum-Mukhiya Gram Panchayat Raj Kauakol, Block-Kauakol, District-Nawada.
6. Secretary, Panchayat Employment Unit-cum-Panchayat Secretary Gram Panchayat Raj Kauakol, Block-Kauakol, District-Nawada.
7. Jai Prabha Singh W/o Shri Naresh Kumar Resident of Village and P.S.-Kauakol, District-Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sumit Kumar, Advocate
For the Respondent/s	:	Mr. Ram Vinay Prasad Singh, AC to GA-XII
For the Resp.No.7	:	Mr. Amarnath Singh, Advocate
		Mr. Jay Gunjan, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 02-12-2024 Heard the learned counsels for the parties.

2. Inter-se dispute regarding appointment on the post of reservation policy is the subject matter of the instant writ petition.

3. Pursuant to an advertisement issued in the year 2008, applications were invited for from eligible candidates for consideration of their cases for appointment against the post of



Panchayat Teachers under Gram Panchayat Raj Kauakol in the District of Nawada. Several candidates including the petitioner and the private respondent No.7 submitted their application for selection and appointment. By an order dated 13.08.2010 all the six vacant posts of Panchayat Teachers were filled. It is contended by the petitioner that the Panchayat Employment Unit, Kauakol had committed gross illegalities in the selection/appointment of Panchayat Teachers, as the same was made contrary to the provision of Bihar Panchayat Teachers Employment and Service Condition (Amendment) Rules, 2008 even the Panchayat Employment Unit was not fully constituted in accordance with Rule 9 and as such the decision of Panchayat Employment Unit was not approved by the Executive Committee of the concerned Gram Panchayat.

4. As a result, one Sunila Kumar filed a complaint case bearing Complaint Case No.296(ii)/2010 dated 20.08.2010 before the District Teacher Employment Appellate Authority, Nawada. The said Appellate Authority decided on 13.09.2010 that the appointment of Panchayat Teachers were based on violation of the Rules of recruitment process. The order passed by the District Appellate Authority on 13.09.2010 was challenged by the private respondent No.7 and others before this



Court by filing CWJC No.19055 of 2010. This Court while disposing of the above-mentioned writ petition held that the order dated 13.09.2010 was a non-speaking order and as such it was set aside. The matter was again remitted back to the District Appellate Authority for reconsideration.

5. On the basis of the said order passed in the above-mentioned writ petition on 14.12.2012, the Panchayat Employment Unit issued notice to all the candidates and came to the conclusion that the selection made by Panchayat Employment Unit in the year 2010 was against all Principles/Rule of selection and as such held the selection of all six Panchayat Teachers including the private respondent No.7 contrary to the Rules and set aside the entire selection process.

6. The respondent No.7 again challenged the said order by filing CWJC No.14457 of 2012, in the said writ petition an interim order was passed on 11.09.2012 and it was pending till 21.11.2017, when the respondent No.7 being the petitioner withdrew the writ petition with liberty to prefer a statutory appeal. On the basis of the order passed in CWJC No.14457 of 2012, the respondent No.7 preferred an appeal before the State Appellate Authority being Appeal No.287 of 2018 assailing the order dated 04.04.2012 passed in Complaint Case No.8 of 2012



by the District Teachers Employment Appellate Authority, Nawada. The State Appellate Authority allowed the said appeal and directed respondent No.7 to be appointed in place of the present petitioner in EBC(F) quota as she secured higher marks than the present petitioner.

7. The parties mainly the official respondents and respondent No.7 exchanged affidavits refuting the allegation made by the petitioner. On perusal of the writ petition as well as the counter affidavits the following factual position has come into surface :-

"The present petitioner was selected in the category of EBC(F) and she got 56.11% marks in the recruitment examination. The private respondent No.7 got 65% marks in the said examination. One Rinku Kumari, who was appointed as B.C.(F) got 48.4% marks and one Wakeel Ansari, though an EBC candidate marched to unreserved category as he got 61.11% marks in the examination."

8. It is contended by the learned Advocate for the petitioner that the decision of the State Appellate Authority is absolutely arbitrary, capricious and without following the rules of procedure. In order to substantiate his contention he refers to the casts certificate of respondent No.7, which is a part of her



writ petition to show that the respondent No.7 is a candidates belonging to B.C.(F), whereas the dispute relates to selection of candidate in EBC(F) category. In EBC(F) category the petitioner got the highest mark and actually she was selected.

9. On the contrary, the learned advocate on behalf of the respondent No.7, relies on Notification No.13623 dated 10.09.2015 issued by the General Administration Department declaring the manner as to how reservation policy is to be followed in respect of filling up of vacancies by the reserved (Schedule Caste/Schedule Tribes and Other Backward Classes) under 1991 Rules.

10. The said order appends a list as Annexure-1 wherein Chandrabanshi (Kahar) Kauakol was stated as Extremely Backward Class.

11. The learned Advocate on behalf of the petitioner urges that there cannot be any conflict between Extremely Backward Class and Backward Class. Respondent No.7 is a candidates of B.C.(I) so he cannot merge to the quota of Extremely Backward Class. Secondly, it is submitted that if the respondent No.7 got the highest mark in the selection process being a meritorious candidate he could have merged to the position of UR candidate or Backward Class (Female)



Candidate. Under no circumstances, EBC candidate could be deprived by the respondent Authority in order to promote respondent No.7.

12. The learned Advocate on behalf of respondent No.7, on the other hand, has filed a caste certificate issued on 22.08.2008 in the name of the petitioner, wherein it is written that the petitioner is a member of Nai (नाई) caste.

13. Therefore, having considered entirely the gamete of the problem, this Court is of the view that the statutory appellate authority is required to considered whether respondent No.7 comes to the category of the petitioner. If she does not come to the category of petitioner, she is not entitled to take away the place of the petitioner, in which she was selected as EBC Candidate. This issue has not been decided by the State Appellate Authority, therefore, I do not have any other opportunity but to quash the impugned order of the State Appellate Authority passed on 16.03.2020.

14. The State Appellate Authority is directed to decide the issue on the basis of observation made herein-above and come to a finding as to whether the petitioner belongs to EBC Category and the respondent No.7 belongs to the same category or not. If he does not belong to the same category, petitioner's



selection shall remain untouched.

15. The State Appellate Authority is directed to dispose of the matter, within 90 days from the date of receipt/communication of this order.

16. With the above order, the instant writ petition stands disposed of.

(Bibek Chaudhuri, J)

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