

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2608 of 2016

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Mina Devi @ Mina Kumari W/o Manoj Kumar Sahni resident of village -
Harpur Balra, P.O. Balra Ishmail, P.S. Maniary, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Primary and Adult Education, Government of Bihar, Patna
2. The Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Collector cum Chairman, Bihar Shiksha Pariyojna, Rambag, District - Muzaffarpur.
4. The Collector, Muzaffarpur.
5. The District Program Officer, Primary Education and Sarva Shiksha Abhiyan Bihar Shiksha Pariyojna,
6. The District Education Officer, Muzaffarpur.
7. The District Superintendent of Education cum Convenor of Sukh Subidha Committee, District - Muzaffa
8. The Panchayat Secretary, Gram Panchayat Raj, Harpur Balra, P.S. Maniary, District - Muzaffarpur.
9. The Mukhiya cum Chairman, Sukh Subidha Committee, Gram Panchayat Raj, Harpur Balra, P.S. Maniary, D
10. The Director Primary Education, Department of Education, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suresh Chand Giri
For the Respondent/s	:	Mr.Kumar Alok- Sc8

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 20-04-2024

1. The present writ application has been filed for a direction to the respondent authority to consider the case of the petitioner for appointment on the post of Panchayat Shiksha Mitra / Panchayat Teacher in the Middle School, Gram Panchayat Raj Harpur Balra.



2. The petitioner applied for appointment on the post of Panchayat Shiksha Mitra (in short “P.S.M.”) under EBC category on 12.10.2004 against 15 vacancies which were advertised. On 30.05.2005 the list of selected P.S.M. was published in which the name of the petitioner did not find place. Aggrieved by the same, the petitioner filed a representation before the Janta Darbar of the Collector, Muzaffarpur.

3. The petitioner was informed that amongst the candidates for appointment of P.S.M. in the E.B.C. category, the petitioner secured lesser weightage marks i.e. 10 marks and the candidates having higher marks than the petitioner with 15 & 14 weightage marks were selected.

4. The District Programme Officer, Muzaffarpur *vide* Memo No. 1249 dated 01.07.2015 after enquiry upon the complaint of the petitioner concluded that after coming into force of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules 2006, no person can be appointed on the post of P.S.M. after 01.07.2006.

5. Learned counsel for the petitioner submits that selection list dated 30.05.2005 shows that out of 15 vacancies in the concerned Gram Panchayat; only 12 candidates were selected and 03 posts were left vacant. In the Primary / Middle School,



Gram Panchayat Raj Harpur Balra against the existing 06 vacancies, only 05 candidates were selected and 01 post is still lying vacant and the petitioner seeks her appointment on the said vacant post in the Middle School.

6. Learned counsel for the respondent no. 7 / State submits that after coming into force of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006; the post of P.S.M. stood abolished and all the rules / resolutions / orders / directions regarding appointment of P.S.M. became void with effect from 01.07.2006. He relies upon the Memo No. 108 dated 01.02.2007 issued by the Department of Human Resources Development, Government of Bihar by virtue of which after 01.07.2006 no person can be appointed on the post of P.S.M.

7. I have heard learned counsel for the parties. The petitioner is seeking her appointment as a Panchayat Teacher in the Middle School, Gram Panchayat Harpur Balra on the basis of her claim that she had applied for appointment as P.S.M. in the year 2004 and one post in the Middle School, Gram Panchayat Harpur Balra remained vacant on which the petitioner should be appointed.

8. Since the post of P.S.M. stood abolished on 01.07.2006



after coming into force of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006; no person can be employed, claim employment / deemed employment as P.S.M./ Panchayat Teacher retrospectively as held by a Division Bench of this Court in the judgment passed in the case of Smt. Renu Kumari Pandey & Ors. versus The State of Bihar & Ors. reported in 2011(4) PLJR 297 (DB). The aforesaid Division Bench judgment has been affirmed by Full Bench of this Court in the case of Kalpana Rani v. The State of Bihar & Ors. reported in 2014(2) PLJR 665 (FB) wherein it has been held in paragraph no. 118 as follows:-

“118. Having thus given my anxious consideration, I am of the view that after 01.07.2006, no person, who was earlier an aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his or her name figured in the panel of Panchayat Shiksha Mitra. The post of Panchayat Shiksha Mitra has been abolished with effect from 01.07.2006 and after abolition of the post, no one can be appointed on the post of Panchayat Teacher on the basis of his mere empanelment of Panchayat Shiksha Mitra. The view taken in the judgment of the Division Bench in the case of Smt. Renu Kumari Pandey (supra) is a good law. I will have no hesitation in holding that the earlier Division Bench judgment in the case of Kishori Prasad (supra), for the reasons indicated above, has not correctly decided the law and is, accordingly,



overruled.”

9. In the present case admittedly the petitioner was not employed as P.S.M. as on 01.07.2006 i.e. at the time of conversion of P.S.M. as Panchayat Teacher. Accordingly, in my opinion, the petitioner has no right to claim employment / deemed employment as P.S.M. and / or has no right to be appointed as Panchayat Teacher on the post which according to the petitioner remained vacant at the time of appointment of P.S.M.

10. I do not find any merit in this application.

11. The application is dismissed.

(Anil Kumar Sinha, J)

Ashwani
/praful/-AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	30-4-2024
Transmission Date	NA

