

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15014 of 2023

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Rinku Devi W/o Late Ashok Kumar, Resident of Village-Laheriya Tola, P.S.
Athmalgola, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Home, Bihar, Patna.
2. The Secretary, General Administration, Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Sub-Divisional Officer, Barh, Patna.
5. The Superintendent of Police (Rural), Patna.
6. The Additional Collector, General Administration, Patna.
7. The Circle Officer, Athmalgola, District Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Adv.

For the Respondent/s : Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 28-03-2024

The present writ petition has been filed for quashing the order dated 17.2.2023, communicated to the petitioner, vide letter dated 13.3.2023, whereby and whereunder the selection of the petitioner on the post of Chaukidar has been cancelled on the ground that the educational certificate, submitted by the petitioner, has not been obtained from a recognized university.

2. The brief facts of the case, according to the petitioner, are that the husband of the petitioner, namely, Ashok Kumar, died in



harness on 9.8.2015, while working as Chaukidar at the Circle-Athmalgola, District-Patna, whereafter the petitioner, being a matriculate, had filed an application for appointment on compassionate ground and ultimately, her case was considered sympathetically and she was appointed on compassionate ground, vide letter dated 18.8.2022, pursuant whereof, the petitioner had submitted her joining, however, no payment was made to her, inasmuch as the documents / certificates, submitted by her, were sent to the Circle Officer, Athmalgola, for verification, however, upon verification, it was found that the certificate, issued to the petitioner by the Central Board of Higher Education, New Delhi, is not valid for the purposes of selection on the post of Teacher. Thereafter, the District Compassionate Appointment Committee, Patna, had reconsidered the case of the petitioner for appointment on compassionate ground and vide minutes of meeting dated 26.7.2022, had taken a decision to cancel the appointment of the petitioner on compassionate ground, inasmuch as the Central Board of Higher Education, New Delhi, from where the petitioner had obtained matriculation certificate, has neither been established by the State Government or the Central Government.



3. The learned counsel for the petitioner submits that the petitioner had not misrepresented before the authorities, hence, a sympathetic view be taken and the petitioner be permitted to continue in the services of the Respondents.

4. Per contra, the learned counsel for the Respondent-State has submitted, by referring to the counter affidavit filed in the present case that upon the District Programme Officer (Establishment), Patna, being asked to submit a report with regard to the certificate submitted by the petitioner, he had sent a report, referring therein to a departmental letter no. 7973 dated 27.11.2012, wherein it has been observed that the Central Board of Higher Education, New Delhi, is a voluntary Institution and is not a Board established either by the State Government or the Central Government, hence, the certificates issued by the said Institution shall be invalid for the purposes of appointment in the State of Bihar. In such view of the matter, it is submitted that since the petitioner does not possess the requisite qualification from a recognized institution, her appointment could not be regularized and instead a decision was taken by the District Compassionate Appointment Committee, Patna, in its meeting held on 26.7.2022, to cancel the appointment of the petitioner on compassionate ground. The learned counsel for the



Respondent-State has referred to a letter dated 27.11.2012, issued by the Principal Secretary, Education Department, Government of Bihar, Patna, to submit that a decision has been taken by the State Government that the certificates, issued by the Central Board of Higher Education, New Delhi, would not be considered as a valid certificate for the purposes of appointment by the various appointment units or for the purposes of appointment of Teachers.

5. I have heard the learned counsel for the parties and perused the materials on record. Although this Court has its utmost sympathy as far as the petitioner is concerned, but then it is the law which must prevail over equity. It is a trite law that equity can only supplement the law when there is a gap in it, but it cannot supplant the law, hence in case of conflict between equity and law, it is the law which must prevail. Thus this Court has to decide the present writ petition in terms of the prevailing law. Therefore, taking into account the mandate of the aforesaid letter dated 27.11.2012, issued by the Principal Secretary, Education Department, Government of Bihar, Patna, whereby and whereunder the certificates, issued by the Central Board of Higher Education, New Delhi, have been declared to be invalid for the purposes of appointments to be made in the State of



Bihar and there being no challenge to the same from any quarter, the inevitable conclusion is that the petitioner can not be granted any relief, inasmuch as she does not possess the minimum qualification for grant of appointment on compassionate ground i.e. matriculation, from a recognized Board.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any merit in the present writ petition, hence, the present writ petition stands dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	2.4.2024
Transmission Date	NA

