

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.718 of 2022

In

Civil Writ Jurisdiction Case No.4858 of 2018

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Subi Khanam wife of Afsar Tabarak, Resident of Village- Bathna, P.S.
Kesariya, District- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna.
3. The District Magistrate, East Champaran.
4. The District Education Officer, Motihari, East Champaran.
5. The District Programme Officer, Establishment, Motihari, East Champaran.
6. The Block Development Officer, Kesariya Block, East Champaran.
7. The Block Education Officer, Kesariya Block, East Champaran.
8. The Panchayat Secretary, Gram Panchayat Raj, Bathana, Kesariya Block,
East Champaran.
9. The Mukhiya, Gram Panchayat Raj, Bathana, Kesariya Block, East
Champaran.
10. The Chairperson, State Appellate Authority, Education Department, 5 C-D,
Niyojan Bhawan, Bailey Road, Patna.
11. Shama Perween, wife of Hatim Khan, Resident of Village- Bathana, P.S.
Kesariya, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. S.B.K. Manglam, Advocate Mr. Awnish Kumar, Advocate
For the State	:	Smt. Shilpa Singh (SC-28) Mr. Apurva Kumar, Advocate
For Respondent No. 8	:	Mr. Neeraj Singh, Advocate
For Respondent No. 11	:	Mr. Shivendra Kishore, Sr. Advocate



Mr. Nafisuzzoha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-08-2024

The dispute raised in the writ petition was with respect to who is eligible for appointment as Panchayat Teacher, whether it is the appellant or the 11th respondent. The appellant had obtained 71 per cent marks in the Maulvi examination and the 11th respondent obtained 78 per cent marks in the Maulvi examination. Based on the merit, the 11th respondent was appointed; which was challenged by the appellant on two counts before the District Appellate Authority. One of the grounds was that the date of birth of the 11th respondent, shown in Fauqania and Intermediate examination certificate is 10.01.1983 while in the Maulvi examination the date of birth mentioned is 10.01.1987. It was also alleged that the Intermediate degree certificate was forged. The District Appellate Authority found in favour of the appellant and set aside the appointment of the 11th respondent made on 29.12.2010. The appellant also was directed to be appointed in that post.



2. The 11th respondent filed an appeal before the State Teachers Employment Appellate Authority, which set aside the order of the District Appellate Authority and restored the 11th respondent in the post of Panchayat Teacher, against which the writ petition was filed.

3. The learned Single Judge found that the 11th respondent had not disclosed the fact that she was employed as a Panchayat Shiksha Mitra at the time of application. The application form produced by the 11th respondent in her counter affidavit, wherein such information was specifically stated, was found to be a forged document. The document produced by the writ-petitioner which was obtained under the Right to Information Act; the application filed by the 11th respondent did not contain the information of the 11th respondent having been employed as Panchayat Shiksha Mitra. The 11th respondent also had a contention that she resigned from the post of Panchayat Shiksha Mitra on 30.12.2010 after which the application was made.

4. In any event, there is no dispute between the parties regarding the eligibility of a Panchayat Shiksha Mitra to appear for the selection to the post of Panchayat Teacher. However, the decision of the learned Single Judge to the extent it finds the



production of a forged document before Court stands against the 11th respondent; in terms of the 11th respondent having deliberately attempted to mislead the Court and also on the ground of the disclosure being imperative as per the advertisement.

5. The learned Single Judge further found that the anomaly in date of birth as pointed out by the writ petitioner was available at the time of appointment; which should have disabled the appointment of the 11th respondent. The correction in date of birth was far later to the appointment made, as a Panchayat Teacher. Despite the finding of forgery and also the anomaly in the date of birth existing as on the date of appointment, the learned Single Judge approved the order of the State Appellate Authority, which was in favour of the 11th respondent.

6. Having gone through the judgment, we find that the operative portion is contrary to the finding of the learned Single Judge; leading from anomalous situation. The findings were against the 11th respondent but the operative portion approved the order of the State Appellate Authority confirming the appointment of the 11th respondent.

7. As we noticed, the continuance in the post of



Panchayat Shiksha Mitra is not a disability to apply for the post of Panchayat Teacher. However, the advertisement calling for applications specifically indicates that the details should be furnished truthfully and if there is any suppression or false details furnished, necessarily, the candidate would be disqualified. The learned Single Judge has categorically found that the copy of the application form produced by the 11th respondent cannot be relied upon. The application form as produced by the writ-petitioner, which was obtained under the Right to Information Act, was relied on by the learned Single Judge; which we find to be perfectly in order. The writ-petitioner having not disclosed her appointment as a Panchayat Shiksha Mitra; even if she had resigned before the application was made, stands disqualified from consideration for selection and appointment as a Panchayat Teacher, on the ground of suppression of material facts.

8. Further, the anomaly in date of birth is also a stark reality, at the time when the appointment was made. The certificates produced by the 11th respondent had different dates of birth on the date of her appointment. Though the same was corrected later, the appointing authority could not have condoned the anomaly in the date of birth at the time of



appointment.

9. On the reasoning as supplied by us, we find the judgment of the learned Single to the extent it approved the order of the State Appellate Authority to be not in accordance with law. We hence restore the order of the District Appellate Authority dated 20.09.2012 (Annexure-4) and direct that the appellant be posted to the post of Panchayat Teacher.

10. The Letters Patent Appeal stands allowed.

11. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

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