

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1266 of 2024

=====

Sikha Kumari D/o Badri Prasad Gupta Resident of Village-Railway Gate,
Kumar Medical, P.S.-Mahihari, District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The Bihar Public Service Commission through its Chairman.
5. The Examination Controller, Bihar Public Commission, Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Sharda Nand Mishra, Adv. Mr. Vivekanand Jha, Adv. Ms. Isha Jha, Adv.
For the State	:	Mr. Manish Kumar, AC to Ex AAG 6 and I/c AAG 5
For the BPSC	:	Mrs. Parul Prasad, Adv. Mr. Aditya Anand, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-09-2025

Heard the parties.

2. The petitioner, an aspirant for the post of Assistant Teacher in the subject of Computer Science in connection with Advertisement No. 26/2023, on being aggrieved with the order dated 12.12.2023, to the extent it relates to the petitioner, has invoked the jurisdiction of this Court seeking quashing of the same by which her objection application came to be rejected. The petitioner further sought a direction upon the concerned respondents to issue selection/appointment letter for the post of



Assistant Teacher Computer Science having better qualification to other applicant and obtained more marks than to the cut off marks.

3. Mr Sharda Nand Mishra, learned Advocate for the petitioner submitted that in pursuant to the captioned advertisement, the petitioner submitted her application along with all requisite documents for her appointment. On being found the documents in tune with the prescriptions of the advertisement, Admit Card was issued. The petitioner appeared in the written examination and secured the cut off marks fixed for EBC Female candidate. She was called for verification of the certificates in terms with the general notice. In response thereto, she appeared along with all her certificates. After completion of all the formalities of the verification, the Bihar Public Service Commission published a general notice in the daily news paper inviting objection regarding result for the post of Assistant Teacher; the petitioner immediately submitted her objection along with affidavit before the BPSC through online. The respondent BPSC came out with the final result through general notice dated 12.12.2023.

4. Mr. Mishra, learned Advocate for the petitioner adverting the aforesaid facts further contended that the



petitioner belongs to EBC category and had secured 49 marks in the subject of Computer Science against the post of Assistant Teacher for Class 11 to 12, inasmuch as; she obtained 59 marks in the qualifying papers against the post of Assistant Teacher for Class 1 to 5. Since the examination of qualifying paper and language subject for Class 1 to 5 and Class 11 to 12 was held on the same date and time i.e., on 25.08.2023 and the Centre of both the examinations was at different places; hence she could not appear in the subject of qualifying paper and language examination of Class 11 to 12. However, it is the admitted fact that the petitioner appeared in the examination for Class 1 to 5, whereas she obtained 59 marks in subject of qualifying paper-cum-language and she obtained 49 marks in General Studies and Computer Science for Class 11 to 12. The respondent Bihar Public Service Commission through a general notice duly published in a news paper clarified that the applicants for the post of teacher from Class 6 to 12 are not required to pass in the subject of qualifying paper. If any of the applicant, meaning thereby gets “0” mark in the language subject but secures qualifying marks in the subject paper, they should be held to be qualified. In the aforesaid circumstances, the BPSC ought to consider the claim of the petitioner for her appointment against



the post of Assistant Teacher.

5. A counter affidavit has been filed on behalf of the Commission. Ms. Parul Prasad, learned Advocate for the respondent Commission, while refuting the contention of the learned Advocate for the petitioner submitted that the material facts have been suppressed in the writ petition and later on it was clarified by filing supplementary affidavit to the extent that the petitioner was absent in the examination of language for class 11 to 12, held on 25.08.2023, which is a qualifying paper. The report of the Centre of the examination, namely, Inter Level Urdu Girls High School, Bhagalpur indicates that the petitioner was absent in the examination; therefore she could not be declared successful. Since the petitioner did not appear and qualify the paper examination, her result could not be published.

6. After careful consideration of the submissions advanced by the learned Advocates for the respective parties and going through the prescriptions of the advertisement, this Court does not find any merit in the writ petition. From perusal of the advertisement, especially the conditions mentioned in Clause-6 thereof; it clearly directs that the applicants can choose one subject in which they have passed the Teacher Eligibility



Test. If a candidate qualifies or has passed the Teacher Eligibility Test in one or more subject, then in that event also, the candidate can opt for only one subject as per his/her wishes. The facts are admitted that the petitioner though secured 49 marks in the subject of Computer Science for the post Assistant Teacher in Class 11 to 12 but she did not appear in the qualifying paper, whereas she appeared in the qualifying paper against the post of Assistant Teacher for Class 1 to 5 and secured 59 marks.

7. The contention of the petitioner that marks obtained in qualifying paper with respect to Class 1 to 5 be added and taken into consideration to declare the petitioner successful in the examination of Computer Science of Class 11 to 12 is wholly misconceived and not permissible in terms with the advertisement. This Court also noticed that later on the BPSC in consultation with the requisitioning authority took a decision that passing of qualifying paper is not *sine qua non* for Class 6 to 12 that cannot improve the case of the petitioner for the simple reason that non-appearance in the examination and not securing the qualifying marks in the examination are two distinct and quite different eventualities. Since the petitioner has never appeared in the examination of qualifying subject; hence



benefit of non passing in qualifying examination cannot be accorded to her. Marks obtained in the examination of qualifying subject for appointment to the post of Assistant Teacher for Class 1 to 5 can in no circumstances be taken into consideration with the marks obtained in the subject matter of Computer with respect of Class 11 to 12 and the vice versa.

8. In view of the aforesaid discussions, the writ petition stands dismissed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	24 .09.2025
Transmission Date	

