

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1030 of 2023

In
Civil Writ Jurisdiction Case No.15619 of 2017

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Bibha Kumari W/o Ajit Kumar, R/o Dinkar Nagar, Majhauilya, P.S.-Sadar,
District-Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. State Project Director, Bihar Education Project, Government of Bihar, Patna.
4. State Program Officer, Bihar Education Project, Government of Bihar, Patna.
5. Block Education Officer cum Block Project Coordinator, Sattar Kataiya Block, Saharsa.
6. District Education Officer, Saharsa.
7. District Program Officer, Bihar Education Project, Saharsa.

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr. Harsh Singh, Advocate
For the State	:	Mr. AC to AAG-13
For the Resp. Nos. 6 & 7:		Mr. Girijesh Kumar
		Mr. Akash Anand, Advocates

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 19-08-2025

Heard learned counsel for the petitioner, learned
counsel for the State as well as learned counsel for the Respondent
Nos. 6 & 7.

2. The present appeal arising out of order/judgment
dated 27.06.2023 passed in C.W.J.C. No. 15619 of 2017 by which



the writ court has been pleased to dismiss the writ petition and further directed that “However dismissal of this writ petition shall not come in the way of the petitioner if she would be eligible for appointment in terms of any future advertisement”.

3. Learned counsel for the appellant submits that the Respondent Nos. 6 & 7 had issued an advertisement on 08.11.2012, for the selection of Rehabilitation/Resource Teachers under Sarva Shiksha Abhiyan for the district of Saharsa. The appellant had applied for the post in question for visually impaired in the General category. The initial engagement was for a period of one year only. The appellant who was admittedly over 45 years of age on 01.11.2012 had applied for the post of Rehabilitation/Resource Teachers for visually impaired in the General category against the advertisement dated 08.11.2012. The Selection Committee of the district of Saharsa on 12.12.2012 had selected the appellant for the post in question and thereafter the appellant was appointed on 18.12.2012 as Rehabilitation/Resource Teacher in the district of Saharsa, wherein the service of the appellant were to be confirmed if they were found satisfactory for three months. The appellant had given her joining on 28.12.2012 before the Education Officer, Sattar Kataiya, Saharsa. The irregularities were found in the selection of



Rehabilitation/Resource Teacher in the district of Saharsa for which a Three-Member Committee was constituted by the State Office whereby the case of each appointee was examined. One Sanjay Kumar has complained to the Respondent No. 3 regarding the veracity of the Three-Member report pointing out instances of such appointees who were otherwise not eligible still continuing pursuant to the selection in the year 2012-13. The Respondent No. 3 vide letter dated 27.12.2015 directed the Respondent No. 7 to verify the allegations in the aforesaid complaint dated 09.09.2015. The appellant presented herself before the Respondent No. 7 on 12.05.2016 and the appellant pointed out that on account of very few candidates and much less female candidates having applied pursuant to the aforesaid advertisement, the age requirement in case of the appellant had been relaxed. The Respondent No. 7 submitted an enquiry report on 13.06.2016 with respect to the appellant, it was stated that the appellant had been appointed notwithstanding being over age in terms of the advertisement on account of the fact that only 06 (six) candidates being available against the total number of 12 (twelve) advertised vacancies and accordingly, the District Selection Committee vide Proceeding No. 11 dated 01.08.2017 unanimously took a decision



to relieve the appellant from her post, as the appellant was over age in terms of the advertisement.

4. Learned counsel for the appellant submits that the Selection Committee after due consideration has selected the appellant on the post in question and the appellant has not concealed the material fact before the Selection Committee as on the date of advertisement, the appellant was more than 46 years old.

5. Mr. Girijesh Kumar, learned counsel for the Respondent Nos. 6 & 7 has submitted that the admitted fact of the case is that an advertisement dated 08.11.2012 was published inviting applications from the eligible candidates for appointment. The initial engagement was for a period of one year only. From perusal of the advertisement dated 08.11.2012 is clearly stipulated a criteria with respect to the age of the candidates and according to the condition the candidates should have been between 18 to 45 years as on 01.11.2012. Learned counsel for the respondents has relied upon a judgment in the case of Bedanga Talukdar Vs. Saifudaullah Khan and Others, reported in (2011) 12 Supreme Court Cases 85, referring paragraph no. 29, which is quoted hereinbelow:



“29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who



become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India”.

6. Having heard counsel for the parties and we have perused the material on record, it is admitted fact that on the date of advertisement the appellant was over age and her appointment was contrary to the condition stipulated in the advertisement dated 08.11.2012.

7. In view of the aforesaid, we have no reason to interfere with the impugned order/judgement. Accordingly, the Letters Patent Appeal is dismissed.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

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