

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5101 of 2020

Sanju Kumari Daughter of Sri Jailal Rai Wife of Sri Subhash Chandra residence of Village
and Post-office- Tajpur, Police-Station- Manjhi, District- Siwan.
... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Primary Education Govt. of Bihar at Patna.
2. The Director Primary Education, Govt. of Bihar at Patna.
3. The District Magistrate, Saran at Chapra.
4. The District Education Officer, Saran at Chapra.
5. The District Program Officer, Primary Education Saran at Chapra.
6. The Program Officer, Pirmary Education Saran at Chapra.
7. The Block Education Officer Manjhi, District- Saran at Chapra.
8. The Mukhiya Gram Panchayat Raj Tajpur, Police- Station- Manjhi, District- Saran at Chapra.
9. The Panchayat Secretary Gram Panchayat Raj Tajpur, Police-Station, District- Saran at Chapra.
10. Arti Kumari, Wife of Harendra Kumar, Resident of Village- Asharam Tajpur, Gandhi Ashram Tajpur, Post Office- (Phulwariya) Tajpur, Police Station- Manjhi, District- Saran. At Present Posted and working as a Panchayat Teacher in Govt. Kanya Primary School, Tajpur, Block- Manjhi, District- Saran. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abdul Mannan Khan, Adv.
Mr. Shambhu Prasad Yadav, Adv.
For the Respondent/s : Mr. Jitendra Kumar Roy 1 (Sc13)

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

15 03-02-2026 Heard Mr. Abdul Mannan Khan, learned counsel for the petitioner duly assisted by Mr. Shambhu Pd Yadav and learned counsel representing Respondent-State.

2. From the order passed by the District Appellate Authority, Saran in Case No. 18/2012, it appears that the appointment process which were carried out in the year 2006, with respect to this petitioner and other similarly situated persons including the Private Respondent remained under litigation till 2019, while, the State Appellate Authority, had the



occasion to pass order dated 16.05.2019 in Case No. Appeal/68/2018 (Sanju Kumar v. The State of Bihar & Ors), said to have been preferred by this petitioner.

3. It is the case of the petitioner that she after having litigated for more than seven years, finally, this petitioner was taken back in the service and she joined upgraded Middle School, Jhakhara on 16.09.2013 and continued to discharge her duties till 22.06.2015. It is the case of the petitioner that without resorting to the procedures prescribed in law, the termination was effected and the issues travelled before the State Appellate Authority, in which, the challenge to the termination was made by this petitioner, wherein the specific ground was taken by this petitioner that there are two posts for Backward Class (BC) Female (F) Category and the petitioner's case could have been considered, even though, Respondent No.10/ Arti Kumari is appointed as against the vacancy Backward Class (BC) Female (F) Category, and the second vacancy could have been made available to this petitioner for appointment.

4. The submissions which have been made with regard to vacancy in Backward Class (BC) Female (F) Category is referable to the counter affidavit, which is said to have been filed by the Block Education Officer, Manjhi in Case No.



Appeal/68/2018, before the State Appellate Authority, Patna in which, there has been candid statement on behalf of the deponent that two posts are available with respect to the Backward Class (BC) Female (F) Category. The extract of paragraph-5 of the counter affidavit is reproduced hereinbelow:-

“5. That with regard to the statements made in paragraph no.7(ii) of the memo of appeal is concern it is to be submitted that the same is matter of record (Annexure-1,4,11 and 13 of the memo of appeal), in the year 2006, 27 vacancies of Panchayat Teacher were made available to Gram Panchayat Raj Tajpur, Manjhi for appointment out of which 6 posts were unreserved, 7 posts were unreserved female, 2 posts were for Most Backward, 3 posts were for Most Backward female, 3 posts were for Schedule Caste, 2 posts were for Schedule Cast Female, 2 posts were for Backward, 2 posts were for Backward Female”.

5. The petitioner's grievances could not be adjudicated before the State Appellate Authority leading to filing of the instant writ petition with similar grievance that this petitioner does not challenge the appointment of Respondent No.10 and her case is that the petitioner being next to



Respondent No.10 and there being two posts under Backward Class (BC) Female (F) Category, the case of this petitioner could have been considered but the State Appellate Authority, who did not consider her entitlement by keeping in row the fact that her appointment on the said post by employment unit was made against the vacancies, upon which the petitioner is said to have discharge the duties from 16.09.2013 to 22.06.2015.

6. With similar plea, the petitioner has sought intervention of this Court wherein, specific statement was made that there are two vacancies under Backward Class (BC) Female (F) Category, still the case of the petitioner has not been considered by the State Appellate Authority and this Court being persuaded by the submission made on behalf of the petitioner, accordingly, called upon the State to file appropriate affidavit with respect to the vacancy position. A counter affidavit is said to have been filed by the Respondents No. 4 to 7 duly sworn by the Block Education Officer, Manjhi and there is categorical statement that as against Backward Class (BC) Female (F) Category, there is only one post.

7. The stand so taken before this Court, is in conflict with the stand taken by the person with same designation, who sworn affidavit before the State Appellate Authority. The



statement so made in the counter affidavit is reproduced hereunder:-

“ 5. That the total 27 vacancies of Panchayat Teacher in Gram Panchayat Tajpur, under Manjhi Block in the first phase of Panchayat Employment Teacher-2006. The District Education Officer, Saran vide letter No. 2320 dated 28.09.2006 whereby roaster has been allotted under different category which are as follows:-

(1) Unreserved (UR)-06

(J) UR (F)-07

(K) EBC-03

(L)EBC (F)-03

(M) SC-03

(N) SC (F)-02

(O)BC-02

(P) BC (F)-01

(Q) Reserve (F)-01

Total-27

6. That on the basis of said roaster, the Panchayat Employment Unit made the employment of Panchayat Teacher. From the above roaster, it is evident that out of 27 vacancies, one post was earmark for BC (F) category and against said post one Arati Kumari (Respondent No. 10) was employed and as such there is no vacancy in BC (F) category.”

8. The State counsel, on being confronted with the



conflicting stand taken by the same authority, submits that he may be allowed to take appropriate instruction in this case to come back with appropriate response with respect to the conflict, which has arisen before this Court in the instant case.

9. The prayer of the State counsel is not being acceded for the simple reason that this matter is pending since 2020 and even though some response is fetched from the State Counsel with regard to the conflicting stand, the adjudication with regard to the disputed issues are required to be made by the authority by referring to the records and only then, the nature of dispute which is raised by this petitioner can be given quietus, as the appointment pertains to the year 2006 and the petitioner who has been claiming her entitlement on the basis of the qualification, which she possesses and after having litigated for more than seven years, the petitioner was given appointment, which, subsequently, been terminated, leading to filing of the aforesaid cases. These glaring facts persuades this Court to issue appropriate direction to the District Appellate Authority to adjudicate the claim of this petitioner on merit, without being influenced by the order passed by the District Appellate Authority and as also by the State Appellate Authority keeping in row the judgment rendered by the Hon'ble Apex Court in the



case of *Renu Kumari v. Abha Kumari & Ors* passed in *Civil Appeal No.(s) 5414 of 2016*, where, the matters of similar nature, wherein the interference was given to the disputed appointment of the year, 2006 keeping in mind the facts that the meritorious person, who has the qualification and the eligibility to hold such posts, their rights should not be prejudiced in any manner.

10. Considering the dictum of the Hon'ble Apex Court, this Court finds it appropriate to direct the District Appellate Authority to adjudicate the claim of this petitioner on its own merit after examining the vacancy position as the stand so taken by the authority of the same designation filed an affidavit, which is in conflict with the earlier affidavit filed before the State Appellate Authority, which order is under challenge, and as such, once the vacancy position is ascertained, then the appropriate steps with regard to adjudication of the claim of this petitioner shall be made on its merit, and the entire exercise shall be concluded within the time limit so prescribed in the statute by putting on notice, all such Government Officials, who would be relevant / necessary parties to the proceeding, and by securing appearance / presence of the suitable / appropriate candidate of her category, if required, to give quietus to the



entire dispute, for doing complete justice in the matter, which is
to be initiated pursuant to the direction issued by this Court.

11. The writ petition with the aforesaid direction and
observation stands disposed of.

(Ajit Kumar, J)

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