

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19337 of 2019

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Md. Sarfaraz Alam Son of Md. late Khan Ahmad, Resident of Village Eman Savai, P.O. Sahpur Undi, Police Station Patory, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources and Development, Government of Bihar, Patna.
2. The Director, Primary and Adult Education Bihar, Patna.
3. The State Appellate Authority Patna through the Chairman (J).
4. The District Magistrate, Samastipur.
5. The Block Development Officer, Patori District- Samastipur.
6. The Block Education Officer, Patori District- Samastipur.
7. The Mukhiya, Gram Panchayat Chak, Salem, District- Samastipur.
8. The Panchayat Secretary, Gram Panchayat , Chak Salem, District- Samastipur.
9. Md. Mumtaz Ahmad, Son of Md. Ismail, Resident of Village Shahpur Undi, P.S. Patori, District- Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Mahasweta Chatterjee, Advocate
For the Respondent/s : Ms. Binita Singh (Sc-28)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 31-01-2022

Heard Ms. Mahasweta Chatterjee, learned

Advocate for the petitioner.

Nobody appears on behalf of the private
respondent no. 9.

The State is represented by Ms. Binita Singh,
learned SC-28 for the State.



The petitioner despite being a Moulvi, which is equivalent to Intermediate examination was not selected for the post of Urdu Teacher in the primary school in village Maktab, Habaspur within Chalk Salem village Panchayat for which he had applied against an advertisement issued in the year 2006 for appointment of Urdu Teacher in Panchayat Elementary Schools. The private respondent no. 9, who is Intermediate with one subject with 50 marks in Urdu, has been selected.

The grievance of the petitioner is that for any person to fall in the category of eligible teachers in Urdu, he needs to have passed in the subject with the maximum of 200 marks.

The petitioner had challenged the appointment of private respondent no. 9 before the District Teachers Appellate Authority as a result of which, his appointment was set aside.

The respondent no. 9 thereafter preferred an appeal before the State Appellate Authority. The State



Appellate Authority *vide* order dated 23.07.2019 allowed the appeal and quashed the order of the District Teachers Appellate Authority dated 18.03.2016 and also quashed the notification issued by the Panchayat Secretary by which the appointment of respondent no. 9 had been cancelled.

The State Appellate Authority took note of Rule 6 of the Bihar Panchayat Elementary Teachers (Service and Conditions) Rules, 2006 which provides that for being appointed as an Urdu Teacher in an Elementary School, the eligibility will be of a Moulvi or any person having passed in Urdu subject in Intermediate.

Learned counsel for the petitioner has submitted that several officers of the Government including District Superintendent of Education and Public Information Officer of the department of Primary Education have testified that for the eligibility for being appointed as Urdu Teacher, a candidate must have passed in the subject of Urdu at the



Intermediate level, the paper of which should be of minimum 200 marks and not less.

Despite this, it is the grievance of the petitioner, the State Appellate Authority has ratified the appointment of private respondent no. 9, who admittedly has passed an Intermediate examination with Urdu for only 50 marks. The State Appellate Authority appears to have relied upon a Division Bench judgment of this Court, which in the estimation of the learned counsel for the petitioner, is on a different issue altogether.

In the case of *Salamat Ansari vs. State of Bihar* (LPA No. 1369 of 2012) the issue was that Salamat Ansari, the appellant therein, had passed his Intermediate examination from Uttar Pradesh. Later, he sat for Urdu examination at the Intermediate level as an additional subject in which he had passed. Since at Intermediate level, he had Urdu as an additional sixth subject, he was held to be eligible for being appointed as a Urdu Teacher in view of Rule 6 of Bihar Panchayat Elementary Teachers



(Service and Conditions) Rules, 2006 as it provided for appointment for the post of Urdu Teacher to a candidate who had Urdu as one of the subjects. The appellate court in that instance did not find any distinction between the main subject, subsidiary subject or additional subject so far as training in Urdu was concerned.

Ms. Chatterjee, learned Advocate for the petitioner submits that in that case, the contender had an additional subject in his Intermediate examination. The issue here is absolutely different.

The petitioner had sought information from the authorities with respect to the qualification regarding the eligibility of a candidate for being appointed as an Elementary Teacher in subject Urdu in terms of Rule 6 of the Bihar Panchayat Elementary Teachers (Service and Conditions) Rules, 2006 (hereinafter called the 'Rules of 2006').

On all occasions, the petitioner was informed that it is mandatory for a candidate to have passed in Urdu



paper of minimum of 200 marks. The information so provided was through the mouth of responsible officers of the rank of District Superintendent of Education and Public Information Officer of the department of Primary Education.

However, Ms. Binita Singh, learned counsel for the State has submitted that a plain reading of Rule 6 of the 2006 Rules would make it obvious that no such requirement can be read into the qualification with respect to Urdu. All that the Rule requires with respect to eligibility is that a candidate must have passed Intermediate level examination with Urdu as one of the subjects or he should be a Moulvi, which is a specific qualification of the level of Intermediate in the subject of Urdu.

No doubt the petitioner is a Moulvi and has the qualification and the eligibility but merely on that account, the appointment of respondent no. 9 cannot be challenged on the premise that Urdu subject in his Intermediate examination was for only 50 marks.



Apart from this, it has been urged on behalf of the State that because of such confusion in the matter, in many such appointments, in the year 2012, a clarification has been made in the Rule 6 of the Rules of 2006 indicating that all that is required for eligibility for a teacher in Urdu is his Intermediate degree with Urdu as one of the subjects or Moulvi.

In view of the aforesaid, we do not find any fault with the order passed by the State Appellate Authority.

The petition has no merits and thus the same is dismissed.

(Ashutosh Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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