

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7777 of 2024

Khusboo Kumari @ Khushboo Kumari C/O Shiv Kumar Anand, Resident of -
Gangjala Chanakyapuri, Meera Cinema Road, Ward No. 19, P.O.- Saharsa,
P.S.- Saharsa, District- Saharsa, Bihar- 852201.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director of Primary Education, Education Department, Government of Bihar, Patna.
4. The Bihar Public Service Commission, Jawahar Lal Nehru Marg (Bailey Road), Patna, Bihar- 800001 through the Chairman.
5. The Secretary, Bihar Public Service Commission, Patna, Bihar.
6. The Additional Secretary, Bihar Public Service Commission, Patna, Bihar.
7. The Joint Secretary, Bihar Public Service Commission, Patna, Bihar.
8. The Examination Controller, Bihar Public Service Commission, Patna, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.B.K. Mangalam, Adv. Mr. Avinash Kumar, Adv. Mr. Vikash Kumar Singh, Adv. Mr. Kumar Gaurav, Adv. Mr. Rishi Raj, Adv.
For the Respondent/s	:	Mr. Prateek Kumar, AC to GA-11
For the B.P.S.C.	:	Mr. Zaki Haider, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 24-11-2025

Heard Mr. S. B. K. Manglam, learned Advocate for the petitioner and Mr. Zaki Haider, learned Advocate for the Bihar Public Service Commission. The State is represented through Mr. Prateek, learned Advocate.

2. The petitioner, one of the applicant for appointment to the post of Teacher for Class-I-V in terms with



Advertisement No. 26 of 2023, has approached this Court seeking issuance of a writ in the nature of mandamus commanding the respondent authorities to consider her candidature by treating her educational qualification as D.El.Ed instead of B.Ed. The petitioner also sought a direction to prepare the revised merit list of the petitioner on the basis of marks obtained by her in the BPS TRE-1 Examination Result published by the Bihar Public Service Commission (hereinafter referred to as 'the Commission') for appointment to the aforementioned post under the EBC (Female) category treating her as a candidate, who has participated and passed in the selection process held in terms with the aforementioned advertisement.

3. Learned Advocate for the petitioner referring to the short facts, as narrated in the writ petition, has contended that the petitioner cannot be denied appointment for the aforesaid post simply on the ground that she had inadvertently mentioned in her qualification as B.Ed. instead of Diploma in Elementary Education (D.El.Ed.), as one of the column in the Online application form filled by her, although at other place in the said Online form she has already mentioned her qualification D.El.Ed. holder, besides she has also uploaded the Diploma in Elementary Education certificate and her marks sheet issued by



the Bihar School Examination Board along with her Online application form.

4. Referring to the captioned Advertisement No. 26 of 2023, it is submitted that Clause-4(A) of the Advertisement clearly stipulates that the candidate, *inter alia*, who has the qualification of Graduation with Diploma in Elementary Education or 50% marks with Graduate and B.Ed. Degree holder are qualified to be appointed against the post of Teacher of Class-1 to V. Thus, even otherwise, the petitioner was eligible to be considered for her appointment. It is further submitted that the petitioner has also filed an application along with the affidavit for rectification of the mistake, the copies of which have also been placed on record, as Annexures P/11 and P/12, but to no avail.

5. Heavy reliance has been placed on a decision rendered by the Apex Court in the case of *Vashist Narayan Kumar Vs. The State of Bihar & Ors., reported in, 2024 LiveLaw (SC) 1*. It is submitted that the Apex Court clearly emphasized that if error in the application is trivial which did not play any part in the selection process, the State was not justified in making a mountain out of this molehill. The petitioner should not be penalised for this insignificant error,



which made no difference to the ultimate result; all the more, in a case where the petitioner has successfully passed the examination and chased the cut off marks. It is specifically contended that under the Extremely Backward Class (Female) category, the cut off marks was prescribed as 44, however, the petitioner has secured 45 marks.

6. Mr. Zaki Haider, learned Advocate for the Commission submitted with all vehemence that for the apparent mistake committed by the petitioner, the Commission is not responsible. Moreover, time and again, notices were issued and objections were invited to make necessary correction but the same has not been done by the petitioner. The entire recruitment process of TRE-1 to TRE-3 have been completed and subsequently appointment have also been made and thus any interference or order passed in this case would disturb the entire process, which has already been set at rest.

7. Referring to the counter, he further submits that Clause 7 (Kha) of the Advertisement clearly stipulates that the examination will be conducted by the Commission considering the claims of the candidates with respect to educational, teachers training, eligibility and other qualification, which are filled up in the application form by the candidates. Thereafter, the merit list



shall be sent to the Department and the said department shall appoint the candidates after verification of the documents. Clause-11 of the Advertisement further clarifies that the Commission shall consider the information given by the candidates assuming to be true and the verification of the documents shall be done by the appointing authority. The Commission opened the grievance portal, but the petitioner has never raised her any grievance. Now when the entire process has been completed, the present writ petition has been filed, which sans any merit, is the contention of the learned Advocate for the Commission. It is further submitted that so far the decision, over which reliance has been placed that relates to correction of the date of birth, and is not applicable in the facts of the case.

8. Mr. Pratik Kumar, learned Advocate for the State referring to Clause 11 of the Advertisement further submitted that if there was any mistake in the application form of the petitioner, she could have removed the same by filing a fresh application, cancelling the earlier one, but the same has not been done. At this later stage, no correction in the application form is permissible in terms with the Advertisement, which is required to be scrupulously followed.



9. This Court considered the submissions advanced by the learned Advocate for the respective parties and also perused the materials available on record.

10. Before parting with the case it would be worth observing that strict adherence to the terms and condition of the instruction of the advertisement is of paramount importance. A person, who does not possess a requisite qualification, cannot even apply for recruitment, since his appointment would be contrary to the statutory rules; lacking eligibility for the post cannot be cured at any stage [Vide ***Tamil Nadu & Ors. vs. G Hemalathaa & Anr, (2020) 19 SCC 430*** and ***State of Gujarat & Ors. vs. Arvind Kumar T. T. Tiwary, 2012 (9) SCC 545***]. It would be also apt and proper to recapitulate a decision of the Apex Court rendered in ***T. Jaikumar vs. A. Gopu & Anr, 2008 (9) SCC 403*** where the Court observed as follows :-

“12. We are not aware of any principle of law under which once a candidate is allowed participation in the selection process, the selection authority is precluded from examining whether his application was complete, in order, within time or otherwise acceptable. A defect in the application form that renders the candidate ineligible might be overlooked in the initial screening and as a result he may be called for interview and may get a



chance to take part in the selection process but that alone does not mean that the candidate cannot be held ineligible for selection at a later stage once the defect in the application comes to light.

13. It is surely open to the Tribunal to examine whether the reason assigned by the selection authority for holding a candidate ineligible for selection was valid or unreasonable and arbitrary. If the reason for excluding a candidate from the selection process is found to be unreasonable or arbitrary the Tribunal may certainly intervene, but if the reason itself is valid the Tribunal cannot interfere simply because the candidate was allowed participation in the selection process by being called for interview. The principle of estoppel has no application in such a case.”

11. Having perused the afore-noted decision, this Court is of the considered view that if the reason for excluding a candidate from the selection process is found to be unreasonable or arbitrary, the Court or Tribunal may certainly intervene. In the aforesaid premise now coming to the facts of the case at hand, specially Clause 4 of the captioned advertisement, which prescribed the educational and training qualification for appointment to the post of School Teacher for Class I - V, a candidate must have following qualification including Graduate



with 50% marks and B.Ed. The petitioner applied for the post of School Teacher for Class I – V, had mentioned her educational qualification as B.Ed in a column where the candidate was required to select one of the training qualification including B.Ed/ B.Ed-M.Ed / D.EL.ED/ BAD/ Bsc Ed/ two years Diploma in Elementary Education. However, in the next page of online application she had categorically mentioned her educational qualification as Diploma in Elementary Education and also uploaded both the passing certificate of the Diploma in Elementary Education and its marksheet issued by the Bihar School Examination Board. At no point of time, any objection has been raised and her application was duly accepted following with the issuance of the admit card prescribed in Roll No. 621894, alongwith registration number. The petitioner was allowed to appear in qualifying language paper and subsequently the marksheet was published. The cut-off marks for Extremely Backward Class was fixed at 44 for the General Studies paper and the petitioner has secured 45 marks in the same and 46 marks in the qualifying papers, as per the marksheet published by the Bihar Public Service Commission. Nonetheless, the name of the petitioner did not figure in the list of successful candidates, who have been provisionally allotted



districts.

12. On careful perusal of the online application submitted by the petitioner, the copy of which is also placed on record as Annexure P/5 series, all the qualifications as stated hereinabove are written in one line and a candidate is required to give a choice and accordingly, the petitioner had given a choice, which covered all the training qualification including B.Ed, however, in the second column, she has categorically stated that she has the qualification of Graduate with 50% marks and B.Ed, but, at the same time, she disclosed that she is also having qualification of Diploma in Elementary Education. This Court is also conscious of the clear stipulation in the advertisement, specially clause 11 thereof, that once a candidate filled up his or her form, and if there is any mistake or error, the same can be edited, however, the same would be available till the payment is made. Once payment is made, no editing in any of the particulars of the application is allowed. Further, it is not the case of the respondent that the petitioner has not secured the cut-off marks under the EBC category.

13. An identical matter has come up for consideration before the High Court of Delhi in the case of ***Kendriya Vidyalaya Sangathan vs. Geetanjali Yadav, 2025***



SCC Online Del 6420 where a candidate has applied application for the post of Primary Teacher under the OBC category. The candidate fulfilled all the eligibility criteria of the advertisement, however, while filling the online form, the candidate chose the option; Graduation + B.Ed, because only two choices were available i.e., D.EL.Ed/ JBT/ BTC or Graduation with atleast 50% marks with B.Ed. She further entered her D.EL.ED marks in the relevant columns. The Central Board of Secondary Education conducted the written examination and despite the fact the candidate secured marks over the cut-off marks for the OBC category fixed to 127.2099, her name was not included in the list of shortlisted candidates. Thus, aggrieved of the same, she filed original application before the learned Central Administrative Tribunal, Principal Bench, New Delhi. The Tribunal allowed the O.A. and the impugned list of shortlisted candidates was quashed *qua* the applicant. The order afore-noted, was question before the learned Division Bench of the High Court of Delhi. The Court noticing the error in selecting Graduation + B.Ed in the drop-down menu, which was a consequence of the restricted software design and thus, cannot be construed as misrepresentation, framed a issue that whether a minor technical entry in the online



form can override substantive eligibility.

14. Placing reliance of the judgment of the Supreme Court in ***Dolly Chhanda vs. Chairman, JEE, (2005) 9 SCC 779*** that every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature as also keeping in view the legal maxim of *de minimus non curat lex* that the law does not confront itself with trifles upheld the order of the learned Tribunal and dismissed the appeal preferred by the Kendriya Vidyalaya Sangathan.

15. It would be pertinent to observe that the Hon'ble Supreme Court in ***Vashist Narayan Kumar (supra)*** while considering a case where a student has mistakenly given an incorrect date of birth and thereby, he was ousted from the zone of consideration, held that trivial error in an application, which plays no part in the selection process may be ignored, taking into account the facts and circumstances of a case, such as the one at hand. It would be proper to encapsulate paragraph no.19 of the decision of ***Vashist Narayan Kumar (supra)*** which is stated as follows :-

“In this case, the appellant has participated in the selection process and cleared all the stages successfully. The error in the application is trivial which did not play any part in the selection



process. The State was not justified in making a mountain out of this molehill. Perhaps the rarefied atmosphere of the cybercafe, got the better of the appellant. He omitted to notice the error and even failed to avail the corrective mechanism offered. In the instant case, we cannot turn a Nelson's eye to the ground realities that existed. In the order dated 22.11.2021 in C.A. No. 6983 of 2021 [Prince Jaibir Singh v. Union of India], this Court rightly observed that though technology is a great enabler, there is at the same time, a digital divide."

16. Considering the entire gamut of the facts and the law discussed hereinabove, this Court is of the view that there is obviously neither any suppression or misrepresentation on the part of the petitioner. However, at the time of filing of the application, she might have made a mistake in one of the column in the online application form, by submitting her educational qualification as B.Ed instead of Diploma in Elementary Education, although in the said online application form she has categorically mentioned her educational qualification as Diploma in Elementary Education, besides she had also uploaded the passing certificate of Diploma in Elementary Education alongwith its marksheet issued by the Bihar School Examination Board. Hence, once the petitioner has



obtained the cut-off marks and possessed the eligibility qualification, besides the error is trivial in nature, thus, in no circumstances she should be penalized for her inadvertent mistake.

17. The Court in the case of ***Collector, Land Acquisition, Anantnag vs. Mst. Katiji, AIR 1987 SC 1353*** has reminded that *“it must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because of its capable of removing injustice and it is expected to do so”*.

18. In view of the aforesaid circumstances, this Court finds merit in the writ petition, accordingly the writ petition stands allowed.

19. The respondents are directed to treat the educational qualification of the petitioner as Diploma in Elementary Education for the purposes of her appointment to post of School Teacher for Class I - V in the category of EBC (Female) on the basis of marks obtained by her in B.P.S.C. Teachers Recruitment Examination 1 and issue appointment letter accordingly. It is made clear that if the post of School Teacher in connection with captioned Advertisement No. 26 of 2023 is not available and carried forward to the other



advertisement, in such circumstances, her appointment shall be made with respect to the existing vacancy, without disturbing the earlier merit list of selected candidate. For the purposes of seniority or other benefits, she shall be treated as a last candidate under the category of EBC (Female) under captioned Advertisement No. 26 of 2023, except any actual financial benefit.

20. The writ petition stands allowed.

21. Pending application, if any, also stands disposed off.

22. There shall be no order as to cost.

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.11.2025
Transmission Date	NA

