

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10190 of 2024

Anju Kumari @ Anju Devi, W/o Raj Kumar Pandey @ Raj Kumar, R/o Godhna, Khagaul, Bihta Main Road, P.S. Bihta (Neora), District- Patna.

... ... Petitioner/s
Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna,
3. The Director, Education Department, Govt. of Bihar, Patna,
4. The Chairman, Bihar Public Service Commission, Patna.

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate
For the Respondent/s : Mr. Abbas Haider, SC- 6
For the B.P.S.C. : Mr. Zaki Haider, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 01-09-2025

Heard the parties.

2. The petitioner an aspirant for the post of School Teacher for Class (VI-VIII) Middle School and Class (XI-XII) Higher Secondary School in terms of Advertisement No. 27/2023, aggrieved with the action of the respondents, has approached this Court seeking a direction upon the respondents to select and appoint her on the post of Teacher in Middle School or Higher Secondary School in the existing vacancy.

3. Mr. Ram Hriday Prasad, learned Advocate for the petitioner submitted that in terms of Advertisement No. 27/2023, the petitioner along with others submitted her



application for the post of school teacher. The petitioner appeared in the written test and got 62 marks in the examination of teacher for Middle School (VI-VIII) Class, though the cut off marks in the said category was 77. Simultaneously, the petitioner had got 45 marks in the Higher Secondary School of Class (XI-XII), though the cut off marks in the category went up to 65 marks.

4. The grievance of the petitioner is that under the Advertisement, there was a specific stipulation that the candidates must secured 30% qualifying marks in language paper, i.e. English/Hindi/Urdu/Bangla, however, later on, such requirement for qualifying marks in language test was removed only for the purpose of giving advantage to some candidates and thus by this way the rule of game changed in the mid way causing serious prejudice to the right and entitlement of the petitioner.

5. Heavy reliance has been placed on a decision rendered by the Apex Court in the case of **Hemani Malhotra Vs. High Court of Delhi** and other analogous cases, reported in, **(2008) 7 SCC 11**. Referring thereto it is submitted that the authority making rules regulating selection cannot be allowed to add an additional requirement/qualification or remove the same



once the selection process already commenced, as that would be termed as changing the game in the mid way and the entire selection process would vitiate.

6. It is also contended that the petitioner got less marks because she had parted ample time in preparation for qualifying in the language test. Later on, at the time of preparation of merit list mandatory prescription for passing in language was struck off.

7. Mr. Zaki Haider, learned Advocate for the Bihar Public Service Commission has submitted that the result of the examination was published by the Commission for Class (VI-VIII) on 23.12.2023 declaring altogether 3451 candidates for Hindi Subject. The petitioner could not be declared successful, as she obtained only 62 marks and she stood at merit serial 25528 whereas the cut off marks in Backward Class (Female) Category is 77 and the merit serial of last candidate was 7822; the cut off marks in Backward Class (Ladies) Category is 75 with the merit serial of last selected candidate is 9470. It is further submitted that the Commission further published the result for Class (XI-XII) on 26.12.2023 declaring altogether 4225 candidates successful. Since the petitioner could not be able to obtain the cut off marks in Backward Class (Female)



category as was fixed at 65, but she obtained 45 marks only, therefore, she declared disqualified. It is also submitted that in the advertisement published on 04.11.2023, it was mentioned that the examination was to be conducted into three parts i.e. Part-I, Part-II and Part-III. Part-I consisted of 30- questions on languages and this part was only qualifying in nature and no merit was determined based on marks obtained in this part, except for in the case of tie, where it was to be used as second tie breaker after the first tie breaker, which was the marks obtained in the main Part-III.

8. It is further clarified that in terms of Clause 7(V) of the Bihar State School Teachers (Appointment, Transfer, Disciplinary Action and Service Conditions) Rule, 2023 (hereinafter referred to as ‘the Rule, 2023’), the Commission had at discretion to fix qualifying marks for the said examination and even Clause-6 of Advertisement under heading “Selection Process” similar discretion was extended to Commission to relax the minimum qualifying cut off marks as per necessity.

9. On the report, it was found that Part-I language questions for all the examinations other than the examination for the posts of Primary School Teacher were too difficult requiring



deep understanding of Grammer and Literature, which was much beyond the scope, relevance and requirement for just working knowledge of Language. In view thereof, on advice of the subject experts, the committee considered the issue of relaxing the qualifying cut off marks for Part-I language questions for all examinations, other than the examination for the post of Primary School Teacher. The Committee further after reviewing all the aspect, in order to provide a level playing field to all the candidates, decided to qualify all the candidates by reducing the qualifying cut off marks to Zero in Part-I, Language questions for all examinations, hence no prejudice has been caused to the petitioner.

10. It is thus contended that for both the reasons, afore discussed, the claim of the petitioner is fit to be rejected.

11. Having considered the submissions set forth by the learned Advocate for the respective parties and taking note of admitted facts that the petitioner has secured much lesser marks than the cut off marks, as provided under the Backward Class (Female) category for Class (VI-VIII) and further in Class (XI-XII); that apart relaxation has been given to all the candidates, who participated in the examination, except the candidates for the post of Primary Teachers, on the advice of the



subject experts and thereby provided a level playing field to all the candidates. Thus it is manifest that by the aforesaid relaxation and removing the qualifying marks, no prejudice has been caused to any of the candidates, including the petitioner. The 30 marks of Part-I examination was only meant for qualifying and not to be added in the total marks obtained by the candidates, based upon which a merit list has been prepared.

12. True it is that by striking off qualifying marks a change was brought in favour of all the candidates, but the same was done by the Commission under Clause 7 (V) of the Rule, 2023, read with Clause 6 of the Advertisement, which empowers the Commission to relax the minimum qualifying marks. Thus, in the opinion of this Court, the decision relied upon by the petitioner would not be applicable in the facts of the present case.

13. For all these reasons, this Court does not find any merit in the present writ petition. Accordingly, the present writ petition stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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