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19/9/13

IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION)

C.W.J.C. NO. \_\_\_\_\_/2013

Nand Kishore Sharma and ors. .... Petitioner .

Versus

The State of Bihar and Ors. .... Respondents.

Sub :- Selection ( School Service )

Index

Sl. No.	Annexures	Particulars	Page No.
1		Petition with affidavit.	1-09
2	Annexure-1	Copies of Mark Sheet and certificate .	10-11
5	Annexure -2	Copy of complaint dated 31.1.12.	12-14
		Vakalatnama.	

IN THE HIGH COURT OF JUDICATURE AT PATNA  
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Nand Kishore Sharma . . . . . Petitioners .

Versus

The State of Bihar and Ors. . . . . Respondents.

**SYNOPSIS**

Petitioners moved before this Hon'ble Court for correction their category which has been mentioned in their merit list by the staff selection commission, several persons who have got training certificate along with petitioners in B.C. -I category have been appointed by the respondents .

**LIST OF DOCUMENT**

1993	Certificates of petitioners.
30.01.12	Petitioners filed complained before staff selection Commission on 30.1.12

**Hence this writ application.**

IN THE HIGH COURT OF JUDICATURE AT PATNA  
(CIVIL WRIT JURISDICTION)

C.W.J.C. NO. \_\_\_\_\_/2013

In the matter of an application  
Under Article 226 of the  
constitution of India.

And

In the matter of ;

1. Nand Kishore Sharma , Son of Late Musaharu Sharma .

2. Upendra Mandal, Son of Late Shiv Narayan Mandal

Both Resident of Village – Pama, P.S. – Sour Bazar,

District . – Saharsha.

.....Petitioner.

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education Government of Bihar, Patna.
3. The Bihar Staff Selection Commission Patna , through its Secretary.
4. The Secretary, Bihar staff Selection Commission, Bihar, Patna.
5. The District Education Officer, Madhepura.

.....Respondents.

To,

The Hon'ble MS Justice Rekha M. Doshit, the  
Chief Justice of the High Court of Judicature at Patna and her  
other Companion Justices of the said Hon'ble Court.

The humble application on  
behalf of the petitioner named  
above.

**MOST RESPECTFULLY SHEWETH :-**

1. That this is an application on behalf of above named petitioners for issuance of appropriate writ (s) / order(s) / Direction to the respondent staff Selection Commission to correct the category of Petitioners and further for appropriate direction for consider and appointment of petitioners against the existing vacancy of 34540.

And or any other relief(s) as per the facts and circumstances of the case.

2. That entering the wrong category and not correcting even after representation by the respondent commission is illegal malafide, arbitrary . the action of respondent is violative of Article 14,16,21 of Constitution of India and also against the Principal of Natural Justices.

3. That the petitioner are citizen of India and residing within the territorial Jurisdiction of this Hon'ble Court.

4. That petitioners passing the B.A. ( Hors. ) in year 1981 and took admission for B.Ed in Oxford college of Education in Kolkata for session 1992-1993.

5. That thereafter petitioner appeared in examination and passed the same . Thereafter certificate has been issued to petitioner by the competent authority.

Copies of marksheet and certificate are being annexed as Annexure -1 series to this application.

6. That it is pertinent to state here that several case filed before Hon'ble Supreme Court for appointment of Trained Teacher in state of Bihar. Thereafter direction of Hon'ble Supreme Court Mr.S.K. Chattopadhyya the Retired Judge of Patna High Court made Special officer for finalization of list of trained teacher.

7. That after doing the abovesaid exercise a merit list was and published in which petitioner No. 1 shown at Serial No. 107984 and petitioner No. 2 shown at Serial No. 107887 . Both the petitioner belongs to B.C. 1 category despite their category has wrongly mentioned general

and also in remarks column not trained as required is also mentioned.

8. That petitioners got shocked and Surprised when they saw their name in general category Similarly the Respondent Commission treated the other applicant who have got training along with petitioners as valid training but in case of petitioner in remarks column its is mentioned that not trained as required. Petitioner have obtained in for mention about some of them which are being given herewith . One Krishadeo Ray shown at serial No. 73455 posted in Up-graded middle School Chandanda, Block, Sour Bazar, District – Saharsha.

9. That the petitioners filed complaint before Bihar Staff Selection Commission on 30.01.12 with all relevant documents for correction their category and remarks calumn but till date no correction has been made by the Commission in this regard.

Copies of complaint are being annexed as Annexure - 2 Series to this application.

10. That it is also pertinent to state here that earlier the Hon'ble Supreme Court has put ban upon the Hon'ble Courts to entertain the disputes with regard to vacancy of 34540 trained teachers but vide order dated 18<sup>th</sup> of July 2013 passed in SLP ( Civil ) No. 26824 of 2012 (Yashwant Singh and ors Vs. State of Bihar and ors. ) the Hon'ble Supreme Court modified its earlier order. The said SLP is reported in 2013 (3) PLJR 302.
- 11 That if the correction will be made in the merit panel of the petitioner they will come under the consideration Zone for appointment against the vacancy of B.C. I category.
12. That the action of respondent is illegal, arbitrary, Malafide, malacious and bad in law and also in facts.



13. That the action of respondent is violative of Article 14,16 and 21 of Constitution of India and as well as Principles of Natural Justices.
14. That the petitioners have no other efficacious and alternative remedy except to move before this Hon'ble Court.
15. That the petitioners have not moved earlier before this Hon'ble Court in the matter.

It is therefore prayed that Your Lordships may graciously be pleased to issue Rule NISI calling upon the respondents as to why the prayer made in Paragraph No. 1 of this petition be not allowed to the petitioner and on return of Rule hearing in parties the same be made absolute and pass order, orders as

your Lordships may deem fit and proper.

And /Or

Pass such other order as Your Lordships may deem fit and proper.

And for that the petitioners shall ever pray.

AFFIDAVIT

I, Upendra Mandal, <sup>aged about 42 years</sup> Son of Late Shiv Narayan Mandal, Both Resident of Village – Pama , P.S. – Sour Bazar, District - Saharsha.do hereby solemnly affirm and state as follows :-

1. That I am petitioner No. 2 to this case and as such I am well acquainted with the facts and circumstances of the case.
2. That I have read the contents of this writ application and under stood the Same.
3. That the contents made in paragraph No3 to 26 are true to my knowledge and those made in paragraph no. .nil are true to my information derived from the sources as disclosed there in and rest are by way of submission in this Hon'ble Court.
4. That the annexure are Photo Copy of their Originals respectively.

Upendra Mandal.

Registration No. PTC/04642-92

Index No. 010123-93

# DEPARTMENT OF COLLEGE OF EDUCATION

Affiliated to A I E S - Govt., Registered

CALCUTTA ★ INDIA

Certified that Ms. Chand Krishna Sharma

son daughter wife of Shri / Smt. Mohanbhai Sharma

has been examined in the SENIOR TEACHERS' TRAINING COURSE conducted by the Examination Board of

this Institute and found qualified to receive the Special Class Certificate / Diploma.

Date of Examination 25.3.93.

Date of Issue 10.9.93.

Prepared by [Signature]

[Signature]  
Examiner

[Signature]  
Principal

Registration No. PII/104617-92

Index No. 010228

# WOMEN'S COLLEGE OF EDUCATION

Affiliated to A I E S - Govt. Registered

CALCUTTA - INDIA

Certified that Mrs. Mephertha Chandra

is a member of the General Management Committee

has been examined in the SENIOR SECONDARY COURSE by the Examination Board of

the State and found qualified in the General Class First Division

on the 25.3.75

Signature of M. S. Chandra Principal

Annexure-2 Serial,

12

बिहार कर्मचारी चयन आयोग  
पो-वेटनरी कॉलेज, पटना-14

आपत्ति हेतु प्रपत्र

(विज्ञापन संख्या-210/2010, पद-सहायक शिक्षक)

(उम्मीदवार की प्रति)

आपत्ति प्रपत्र क्रमांक (कार्यालय प्रयोग हेतु): 740584

- अभ्यर्थी का नाम:- नन्दकिशोर शर्मा
- अभ्यर्थी का माननीय सर्वोच्च न्यायालय में समर्पित सूची क्रमांक:- 103984 / 107039
- पिता का नाम:- श्री मुशाहब शर्मा
- जन्मतिथि:- 05.01.1963
- स्थायी पता:- ग्रा०+पो०-पामा  
भागा- दारौली  
जिला - झाड़सा
- संस्थान का विवरण जहाँ से प्रशिक्षण प्राप्त किया:-

क्रमांक	संस्थान का नाम	विश्वविद्यालय/बोर्ड का नाम	प्रशिक्षण का प्रकार (दो वर्षीय/बीएड/सीएचएड/डीपीएड)
1.	ऑक्सफोर्ड कॉलेज ऑफ एजुकेशन, कलकत्ता	ऑक्सफोर्ड कॉलेज ऑफ एजुकेशन कलकत्ता	बी० एड० सत्र :- 1992-93

- वैसे अभ्यर्थी (क्रमांक-6 के संस्था से प्रशिक्षण प्राप्त) का नाम जिन्हें माननीय सर्वोच्च न्यायालय में समर्पित सूची में शामिल किया गया है:- कृष्णदेव राय

- माननीय सर्वोच्च न्यायालय में समर्पित सूची में कॉलम-7 के अभ्यर्थी का क्रमांक: 78071 / 73463

9. संलग्न किए जानेवाले साक्ष्य की सूची का विवरण:-

- मैट्रिक का अंक पत्र का छाया प्रति
- मैट्रिक का मूल प्रमाण पत्र का छाया प्रति
- इन्टर मिडियल का अंक पत्र का छाया प्रति
- बी० एड० का अंक पत्र का छाया प्रति
- बी० एड० का मूल प्रमाण पत्र का छाया प्रति

- जति प्रमाण पत्र का छाया प्रति (ओ.बी.सी.)
- माननीय सर्वोच्च न्यायालय में समर्पित सूची में अपना नाम का सूची का छाया प्रति संलग्न कर रहा हूँ।

मैं घोषणा करता/करती हूँ कि उपरोक्त विवरणी सही है।

नन्दकिशोर शर्मा  
अभ्यर्थी का हस्ताक्षर



14  
बिहार कार्यचारी चयन आयोग  
पी०-वेदनी: कॉलेज, पटना-14

आपत्ति हेतु प्रपत्र

(विज्ञापन संख्या-210/2010, पद-सहायक शिक्षक)

(उम्मीदवार की प्रति)

आपत्ति प्रपत्र क्रमांक (कार्यालय प्रयोग हेतु):

T-40581

1. अभ्यर्थी का नाम:- उपेन्द्र मंडल
2. अभ्यर्थी का माननीय सर्वोच्च न्यायालय में समर्पित सूची क्रमांक:- 107987  
107042
3. पिता का नाम:- रघु शिवनारायण मंडल
4. जन्मतिथि:- 01-04-1969
5. स्थायी पता:- ग्राम + पोस्ट - पामा  
नामा - धबौली  
जिला - सहरसा

6. संस्थान का विवरण जहाँ से प्रशिक्षण प्राप्त किया:-

क्रमांक	संस्थान का नाम	विश्वविद्यालय/बोर्ड का नाम	प्रशिक्षण का प्रकार (दो वर्षीय/बी०एड०/ सी०पी०एड०/डी०पी०एड०)
01	ऑनर्स फॉर्ड कॉलेज ऑफ एजुकेशन कलकत्ता	ऑनर्स फॉर्ड कॉलेज ऑफ एजुकेशन कलकत्ता	बी० एड० सत्र - 1992-1993

7. वैसे अभ्यर्थी (क्रमांक-6 के संस्था से प्रशिक्षण प्राप्त) का नाम जिन्हें माननीय सर्वोच्च न्यायालय में समर्पित सूची में शामिल किया गया है:- कृष्ण देव शर्मा

8. माननीय सर्वोच्च न्यायालय में समर्पित सूची में कॉलम-7 के अभ्यर्थी का क्रमांक - 28071

9. संलग्न किए जानेवाले साक्ष्य की सूची का विवरण:-

- (1) मैट्रिक का अंक पत्र का छापा प्रति
- (2) मैट्रिक का मूल प्रमाण पत्र का छापा प्रति
- (3) इन्टरमीडिएट का अंक पत्र का छापा प्रति
- (4) इन्टरमीडिएट का मूल प्रमाण पत्र का छापा प्रति
- (5) बी० एड० का अंक पत्र का छापा प्रति

- (6) बी० एड० का मूल प्रमाण पत्र का छापा प्रति
- (7) जाति प्रमाण पत्र का छापा प्रति
- (8) माननीय सर्वोच्च न्यायालय में समर्पित सूची में अपना नाम का छापा प्रति

मैं घोषणा करता/करती हूँ कि उपरोक्त विवरण सही है।

उपेन्द्र मंडल  
अभ्यर्थी का हस्ताक्षर

