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19/11/13

IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION)

C.W.J.C. NO. _____ /2013

Sunil Kumar Das and another Petitioners.

Versus

The State of Bihar and Ors. Respondents.

Sub :- Selection (School Service)

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SYNOPSIS

Petitioners moved before this Hon'ble Court for appropriate direction to the Bihar Staff Selection Commission for correct the category of petitioners who belongs to B.C.-I category despite their name have been mentioned in General Category in merit list . Due to this effect petitioners could not appointed. However several persons completed Training in B.C. -I category along with petitioners have been appointed but claim of

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. Sunil Kumar Das , Son of Sri Ramdeo Das R/O Village
+ P.O. – Murliganj Ward No. 07 , P.S.- Murliganj,
District – Madhepura.
2. Mahendra Kumar , Son of Sri Suresh Prasad Madal R/O
Village - -Ramjani P.O. – Rupauli, District – Purnea.

.....Petitioner.

Versus

1. The State of Bihar, through the Principal Secretary,
Education Department, Government of Bihar, Patna.
2. The Director, Primary Education Government of Bihar,
Patna.
3. The Joint Secretary, Education Department Bihar,
Patna.
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 for issuance of appropriate writ(S), Order(s), Direction(s), Directing the Respondent Commission to make necessary correction in the merit list published by then as per the grievances raised by the petitioners and thereafter for a direction to the respondents to take necessary action for selection and appointment against the vacancies under the advertisement No. 210/2010.

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

2. That the action of Respondent not correcting the merit list of petitioners even after proper representation is arbitrary, illegal, unwarranted and also a clear case of misuse or abuse of power. The action of respondents is also against the provisions of Article 14,16 and 21 of the Constitution of India as well as Principles of Natural Justice.

3. That the petitioners are citizen of India and residing within the territorial Jurisdiction of this Hon'ble Court Hon'ble Court.
4. That petitioner No. 1 is graduate trained from the Oxford College of Education, Calcutta belonging from extremely Backward Class category. And Petitioner No. 2 Inter Trained from the same institution.
5. That several cases were filed before the Hon'ble Supreme Court for selection and appointment on the post of assistant teachers in Primary / Middle Schools of Bihar in the regular pay scale even after coming into force of the New Rules 2006 for selection and appointment of assistant teachers in the state.
6. That thereafter upon the direction of the Hon'ble Supreme Court and on the basis of the affidavit filed by the Govt. before the Hon'ble Court, a decision taken for selection and appointment of 34540 Assistant teachers in the Primary / Middle Schools of the state.

7. That in pursuance to the said discussions and exercise on advertising bearing advertisement No. 210 of 2010 was published by the Respondent Staff Selection Commission for selection and appointment of 34540 Assistant teachers.
8. That in pursuance to the said advertisement petitioners also applied in the prescribed format alongwith the relevant documents within time.
9. That thereafter consolidated list of applicants cum merit panel was prepared by the Respondent Commission but due to objection on the said panel a one man commission under the Chairmanship the Retired Judge of the Hon'ble High Court was appointed for scripting and verification of the entire list and panel.
10. That when petitioner No. 1 made a search on the internet he found that his name has been published under General category at Serial No. 69326 . However, he has applied against the vacancy of EBC. category. As such he filed

an objection on 23.01.12 in prescribed format alongwith the documents required. But till date his objection has been left unheard and his name is being shown in the general category.

A copy of said objection is being annexed as Annexure - 1 to this application .

12. That likewise petitioner No. 2 was also placed at serial No. 58127 but the column of training type C.Ped. has been wrongly mentioned in place of Basic Teachers training course. As such he also filed on objection on 23.01.2012 before the Respondent Commission in prescribed format along with relevant documents . But till date no correction has been made by Respondent Commission in the column of training type.

A copy of the said objection is being annexed as

Annexure -2 to this application.

13. That earlier there was a ban for the Hon'ble courts to entertain the writ application with regard to the vacancy of 345240 by the Hon'ble Apex Court . But vide order dated 18.07.13 passed in SLP (C) No. 26824 of 2012 (Yashwant Kumar Singh and Ors. Vs. The State of Bihar and others) the Hon'ble Apex Court has directed to raise the objections before the Hon'ble Patna High Court. The said order / Judgment is reported in the Journal 2013(3) PLJR, 302.
14. That on the abovesaid facts and back ground it is clear that the respondent Commission is not taking any action on the objection raised by the Petitioners through annexure -1 and 2 of this application and not making any correction.

15. That it is pertinent to mention here that on Ratan Kumar Mandal having qualification of Basic Teachers training from the same session and same institution having merit serial No. 20126 has already been appointed as Assistant teacher and also getting his regular salary.
16. That on the basis of the discussion made in aforesaid paragraph No. 15 it the necessary correction as urged by the petitioners before the Respondent Commission be made the petitioners will come into the consideration Zone for appointment on the post of assistant teachers against the advertisement No. 210 of 2010.
17. That the action of respondent is arbitrary , illegal, discriminatory and also a clear case of non application of mind.
18. That the action of respondent is illegal, arbitrary, Malafide, malacious and bad in law and also in facts.

19. 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.
20. That the petitioner have no other efficacious and alternative remedy except to move before this Hon'ble Court.
21. That the petitioners have not moved earlier before this Hon'ble Court.

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, Sunil Kumar Das ,aged about -46 years, Son of Sri Ramdeo Das R/O Village + P.O. – Murliganj Ward No. 07 , P.S.- Murliganj, District – Madhepar do hereby solemnly affirm and state as follows :-

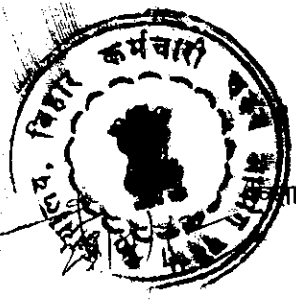
1. That I am petitioner No. 1 to this case and as such I am well acquainted with the facts and circumstances of the case.
2. That I have read the contents of this writ application and understood the Same.
3. That the contents made in paragraph No 3 to 21 are true to my knowledge and those made in paragraph 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.

Sunil Kumar Das

Assessment - 1

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



आपत्ति हेतु प्रपत्र

आपन संख्या-210/010, पद-सहायक शिक्षक)

(उम्मीदवार की प्रति)

आपत्ति प्रपत्र क्रमांक (कार्यालय प्रयोग हेतु)..... T40347

1. अभ्यर्थी का नाम:- सुनील कुमार दास
2. अभ्यर्थी का माननीय सर्वोच्च न्यायालय में समर्पित सूची क्रमांक:- 69326
3. पिता का नाम:- श्री रामदेव दास
4. जन्मतिथि:- 12/07/1967
5. स्थायी पता:- सुनील कुमार दास, 40 श्री रामदेव दास, ग्राम नपो: गुरलीगंज
पोस्ट मन्विकी अस्पताल के सामने, थाना - गुरलीगंज जिला - मधेपुरा

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

क्रमांक	संस्थान का नाम	विश्वविद्यालय/बोर्ड का नाम	प्रशिक्षण का प्रकार (दो वर्षीय/बीएड/सीएपीएड/डीपीएड)
	Oxford College of education Calcutta	Oxford college of education Calcutta Affiliated to A.I.C.S Govt Registered	बीएड

7. वैसे अभ्यर्थी (क्रमांक-6 के संस्था से प्रशिक्षण प्राप्त) का नाम जिन्हें माननीय सर्वोच्च न्यायालय में समर्पित सूची में शामिल किया गया है:- 20126 रतन कुमार अडल पिता श्री राम मंडल
8. माननीय सर्वोच्च न्यायालय में समर्पित सूची में कॉलम-7 के अभ्यर्थी का क्रमांक 20126
9. संलग्न किए जानेवाले साक्ष्य की सूची के विवरण:- ① सर्वोच्च न्यायालय के सुची-आधारित ② प्रशिक्षण प्राप्त संख्या तथा अंक प्रमाण की धारा ③ केंद्रीय अथवा राज्य स्तर पर प्रमाण पत्र का धारा ④ ईश्वर की प्रमाण पत्र एवं अंक प्रमाण पत्र का धारा ⑤ वीएड एवं कैंडिडेट प्रमाण पत्र का धारा ⑥ जाति प्रमाण पत्र का धारा

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

सुनील कुमार दास
अभ्यर्थी का हस्ताक्षर



Non-regular - 2

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बिहार कर्मचारी चयन आयोग
पो0-वेटनरी कॉलेज, पटना-14

आपत्ति हेतु प्रपत्र

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

(उम्मीदवार की प्रति)

आपत्ति प्रपत्र क्रमांक (कार्यालय प्रयोग हेतु):.....T-22377

1. अभ्यर्थी का नाम:- महेन्द्र कुमार
2. अभ्यर्थी का माननीय सर्वोच्च न्यायालय में समर्पित सूची क्रमांक:- 58124
3. पिता का नाम:- श्री सुरेश चंद्र मंडल
4. जन्मतिथि:- 15/01/1953
5. स्थायी पता:- ग्राम- शमजानी, पोस्ट थिला नाथ कपीली, ग्राम- चोपड़ा राम 0/3
थाना- जानकी नगर जिला- पूर्णिया (निधर)

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

क्रमांक	संस्थान का नाम	विश्वविद्यालय/बोर्ड का नाम	प्रशिक्षण का प्रकार (दो वर्षीय/बी0एड0/ सी0पी0एड0/डी0पी0एड0)
	Oxford collage of education Calcutta	Affiliated to A.I.E.S Govt. Registered 740 and 741 Lake Town Block Calcutta 700088	B.T.

7. वैसे अभ्यर्थी (क्रमांक-6 के संस्था से प्रशिक्षण प्राप्त) का नाम जिन्हें माननीय सर्वोच्च न्यायालय में समर्पित सूची में शामिल किया गया है:- रतन कुमार मंडल पिता- श्री शिवम मंडल
8. माननीय सर्वोच्च न्यायालय में समर्पित सूची में कॉलम-7 के अभ्यर्थी का क्रमांक 20126 मंडल

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

- ① सर्वोच्च न्यायालय के सूची पत्र
 - ② सूची में किया गया आक्षेप प्रति (रिप्लायिंग)
 - ③ प्रशिक्षण संस्थान का प्रमाण पत्र - 2
 - ④ इंटर का प्रमाण पत्र - 2
- मैं घोषणा करता/करती हूँ कि उपरोक्त विवरणी सही है।

महेन्द्र कुमार
अभ्यर्थी का हस्ताक्षर

