
(2003) 08 PAT CK 0103
In the Patna High Court
Case No : C.W.J.C. No. 62 of 2001

Miss Kalpana Mandal

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 04-08-2003

Acts Referred:

Citation : (2003) 4 PLJR 264

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Shyama Prasad Mukherji and Shanti Pratap, for the Appellant; A.K. Choudhary, for State and Pramod Kumar Sinha, for the Respondent

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. This writ application is directed against the order, issued vide memo No. 1990 dated 8.8.2000 by Respondent No. 4, the Special Director (Secondary Education), Department of Secondary, Primary and Adult Education, Government of Bihar, as contained in Annexure 1, whereby and whereunder the appointment of the Petitioner on the post of Assistant Teacher has not been approved and the proposal of the school for fixation of salary has been rejected.

3. Learned Counsel appearing on behalf of the Petitioner submitted that after advertising the post the Petitioner was interviewed by the Managing Committee and s thereafter she was appointed as an assistant teacher in Bangala Medium in Keshopur Bangala Minority Primary School, Jamalpur by virtue of the appointment letter, as contained in Annexure 5 dated 28.9.1991 and she continued on the post as such and in course of time, she also passed B.Ed, examination from Bhagalpur University in the month of March, 1990 and thus Respondent No. 4 has no authority in law to disapprove her appointment, as she was appointed in the aided minority school after due approval of the District Superintendent of Education, Munger, who was the competent authority under

the law.

4. Counter affidavits have been filed on behalf of the Respondent State as also on behalf of Respondent Nos. 8 and 9.

5. In the counter affidavit of the Respondent State, it is stated that the Special Director, Respondent No. 4, has jurisdiction to interfere so far the appointment of the teachers is concerned and since the Petitioner was not possessing the requisite qualification for appointment on the post of assistant teacher her appointment was not approved nor the proposal of the District Superintendent of Education, Munger for fixation of her salary was approved.

6. In the counter affidavit of Respondent Nos. 8 and 9, it is categorically stated that the post of assistant teacher was advertised and an interview was called for, where the Petitioner faced the interview and finding her eligible for the post of assistant teacher, she was appointed and in course of time she also got the B.Ed, degree. It is also stated in the counter affidavit that the school, the District Superintendent of Education, Munger, was the competent authority to approve the appointments and the appointment of the Petitioner was duly approved.

7. Respondent Nos. 8 and 9, the Managing Committee of the school in question virtually supported the case of the Petitioner and have tried to impress upon the Court that the State authority has no say in the day-to-day business of the school.

8. It is not in dispute that the school in question is an aided minority school and the managing committee of the school is competent to transact the day-to-day business of the management of the school. It is also not in dispute that the appointment of the Petitioner was approved by the District Superintendent of Education, Munger, who was the statutory authority in law to do so.

9. From the pleadings of the parties now it appears that at the time of appointment of the Petitioner she was a graduate and she obtained the B.Ed, degree in the year 1990 much before passing of the order impugned and after several years of her service virtually now she is being terminated.

10. In an aided minority school, the State authority may have the jurisdiction so far the financial matters are concerned as grant-in-aid comes from the State of Bihar. But, so far the appointment, termination and dismissal of the staff and teachers of the school are concerned it is the duty of the managing committee. The appointment of the teaching and non-teaching staff, however, are required to be approved by the District Superintendent of Education and in the instant case, it appears that the appointment of the Petitioner was duly approved by the District Superintendent of Education, Munger.

11. For the reasons aforementioned, it is held that Respondent No. 4 has no authority in law to interfere in the matter of appointment of the Petitioner, and, therefore, the order, as contained in Annexure 1, is wholly without jurisdiction.

12. Learned Counsel appearing on behalf of the Petitioner submitted that the Petitioner is not working in the school in question pursuant to the order impugned.

13. For the reasons and discussions aforementioned, this application is allowed and the order impugned, as contained in Annexure 1, is set aside and Respondent Nos. 8 and 9 are directed to allow the Petitioner to join the school and to pay the salary to her, as was being paid to her before passing of the order impugned.

14. No order as to costs.