
(2017) 03 PAT CK 0087

In the Patna High Court

Case No : 12066 of 2010

Murshid Alalm Son of Rahmuddin,

APPELLANT

Vs

The State of Bihar Ors.

RESPONDENT

Date of Decision : 29-03-2017

Acts Referred:

Citation : (2017) 03 PAT CK 0087

Hon'ble Judges : Ahsanuddin Amanullah

Bench : SINGLE BENCH

Advocate : Shakil Ahmad Khan, ?Pushkar Narain Shahi, ?Sanjeet Kumar Singh, ? Birju Prasad, ?Ravi Kumar, ? Amresh, ?Rajneesh Kumar Mahajan, Bipin Bihari Singh, S. K. Ranjan

Judgement

1. Heard learned counsel for the petitioner, Mr. Pushkar Narain Shahi, learned Additional Advocate General no. 6, for the State and learned counsel for the respondent no. 10.
2. Pursuant to the previous order, the Principal Secretary, Department of Education, Government of Bihar, Patna is also present.
3. The petitioner was aggrieved by his removal from the post of teacher on the general post though possessing the degree of Maulvi on the ground that as per Rule 6 of the Bihar Panchayat Prarambhi Shikshak (Niyojan evam Seva Shart Niyamwali), 2006 (hereinafter referred to as the "Rules")
4. Learned counsel for the petitioner submitted that though there is no post of Urdu teacher in Nav Shirjit, Government

Primary School, Shampur Dhunia Toli. Learned counsel for the petitioner submitted that though he possesses a degree of Maulvi, but for passing the same, in addition to Urdu, Persian etc. the other subjects were Hindi, English, Economics, Sociology as well as Political Science. Learned counsel submitted that once he has studied the other subjects also, his employment may not be restricted only on the post of Urdu teacher and in fact, even Rule 6 does not debar appointment on a general post and only clarifies the situation that in Urdu schools, on the post of Urdu teacher, only people having Maulvi degree can be appointed. Learned counsel submitted that even in the school in question, the majority of the students are also students of Urdu and thus, there is a requirement for the post of Urdu teacher, if at all, the petitioner cannot be adjusted on a general post.

5. Learned counsel for the State as well as the Principal Secretary, Education Department, Government of Bihar, took the stand that the view taken by the Government, as of now, is a plausible interpretation of Rule 6 read with Rule 8 which further bars the appointment of a person having a degree of Maulvi on any other general post. Learned counsel as well as the Principal Secretary, however, submitted that what has transpired during the discussions/arguments advanced in the present case, the Government may consider the matter and if any modification/clarification is felt necessary, the Government may be open to the same as it is committed to take a non discriminatory stand.

6. Learned counsel for the petitioner, by way of reply, submitted that even Rule 8 permits that persons having Intermediate or equivalent qualification are entitled for appointment on a general post as the qualification of Maulvi has been declared to be equivalent to Intermediate, and thus, he should not be discriminated against.

7. Be that as it may, the Court, in the present proceeding,

is not inclined to go into the merits of the matter particularly as to whether Rules 6 and 8 require interference or what may be a proper and harmonious reading of the Rules. The Court also does not find that the interpretation given by the Government at present is a perverse view. Moreover, the Principal Secretary has fairly stated that since the other interpretation has also come to light, the Government would try to reconcile the Rules in a manner which is non discriminatory, fair and reasonable.

8. In view of the aforesaid, the writ petition stands disposed off with a direction to the Principal Secretary, Education Department, Government of Bihar, Patna to take a final decision in the matter in light of what has been discussed in his presence as also what has been recorded hereinabove so that there is clarity and fairness and no discrimination on the issue. It goes without saying that in the event the petitioner is held to be eligible for consideration to the general post, then the inter se merit of the petitioner and the respondent no. 10 would be looked into for deciding as to who in law is legally entitled to such post. Such decision shall be taken within one month of the clarification at the level of the State Government.

9. The personal appearance of the Principal Secretary, Education Department, Government of Bihar, Patna stands dispensed with.