
(1998) 11 PAT CK 0004
In the Patna High Court
Case No : C.W.J.C. No. 5693 of 1998

Sunita Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-11-1998

Acts Referred:

Citation : (2000) 4 PLJR 77

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Aftab Alam, J.—The Petitioner seeks a direction from this court to be allowed to appear in the Ladies Health Visitor (A.N.M.) Training Examination, 1998. According to her case the respondents were unreasonably refusing to allow her to take the examination even though she had duly completed the A.N.M. Course. The admitted facts are brief and can be stated as follows. In response to advertisement no. DHS, memo no. 23(6), dated 7.1.1991, the petitioner applied for admission to the A.N.M. Course. She was selected after facing an interview and due verification of the material documents produced by her. The list of the selected candidates was approved by the Director-in-Chief, Health Services, by his letter no. 1126(6), dated 23.12.1993 following which the petitioner was asked to take admission in the A.S.S. (Ladies Health Visitor) Training School, Giridih by 7.2.1994, vide memo no. 339, dated 29.1.1994 issued by the Civil Surgeon-cum-Chief Medical Officer, Giridih (Annexure-2). On the basis of that letter the petitioner took admission and duly completed the course.

2. She was, however, not allowed to fill up the necessary forms etc. and to appear for the examination. The reason assigned for disallowing the petitioner from appearing in the examination is that at the time of her admission she was under age by a few months.

3. In the counter affidavit, it is stated that the advertisement stipulated that the

candidate should be not below 17 years and not above 27 years in age on 29.1.1991, in the last date for submitting the application. It is further stated that the petitioner's date of birth was 10.10.1974 and thus she was only 16 years 3 months and 19 days on 29.1.1991. In other words, she was not eligible for admission being below the minimum age prescribed for the course. It is further stated that she was admitted to the course unwittingly and due to mistake. This fact was later discovered and the respondents denied her permission to appear for the examination in order to correct the mistake earlier committed by taking her admission.

4. It is significant to note that there is no allegation that at the time of admission the petitioner concealed her correct age or made any kind of misrepresentation concerning any material facts.

5. In these facts and circumstances, it appears to be quite unjust and unfair to disallow the petitioner from appearing in the examination, even though she had completed her course, on the ground that she was under age at the time of her admission.

6. In *Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another*, , the Supreme Court though firmly holding that the appellants before it were not eligible for admission to the engineering course, allowed them to pursue the course on the ground that the fault lay with the Engineering Colleges which admitted the appellants because the principals of those Engineering Colleges must have known that the appellants were not eligible for admission. In that regard it was observed as follows :

We do not see why the appellants should suffer for the sins of the managements of these Engineering Colleges. We would, therefore, notwithstanding the view taken by us in this judgment allow the appellants to continue their studies in the respective Engineering Colleges in which they were granted admission.

7. The observations of the Supreme Court in the case of *Rajendra Prasad Mathur* (supra) seems to me to apply with full force to the facts of this case and in my view the petitioner is entitled to the relief claimed by her. I accordingly allow this writ petition and direct the respondent authorities to allow the petitioner to appear in the next examination of the Ladies Health Visitor (A.N.M. Course). There will be no order as to costs.