

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
SPECIAL APPEAL NO. 170 OF 2015

Purushottam and another.

.....Appellants.

Versus

State of Uttarakhand and others.

.....Respondents

Mr. H.M. Raturi, Advocate for the appellants.

Ms. Anjali Bhargawa, Brief Holder for the State of Uttarakhand / respondent no. 1.

Mr. B.D. Kandpal, Advocate for respondent no. 2.

Mr. R.K. Raizada, Senior Advocate assisted by Mr. Bhupesh Kandpal, Advocate for the writ petitioners/respondent nos. 3 to 5.

Dated: 30.04.2015

Coram: Hon'ble K.M. Joseph, C.J.
 Hon'ble V.K. Bist, J.

K.M. Joseph, C.J. (Oral)

Leave to Appeal is granted. Accordingly, the Application (CLMA No. 4720 of 2015) for leave to Appeal stands allowed.

2. Appellants are Diploma Holders. Applications were invited by the Uttarakhand Public Service Commission for filling up the posts of Junior Engineer. The stated qualification was Diploma in the respective branch. The writ petition was filed by B.Tech Degree Holders claiming that they are also entitled to participate in the selection process. The learned Single Judge permitted the writ petitioners to also participate, but making it subject to the final decision of the writ petition. It is the said order, which is impugned before us by the candidates, who have Diploma.

3. We heard the learned counsel for the appellant, learned counsel for the Commission and also the learned senior counsel, who appears for the writ petitioners.

4. The learned senior counsel for the writ petitioners would point out that it was an interlocutory order and the matter at issue is not finally decided in the writ petition, the Court may not interfere with the interim order. No doubt the learned counsel for the Commission would point out that it is a case where what is fixed by

way of qualification is not the minimum qualification, but the qualification. The learned counsel for the appellant also would in fact submit that there could not have been any basis for the learned Single Judge to pass the impugned order.

5. We notice that what the learned Single Judge has passed is an interim order pending final decision in the writ petition. It is in the writ petition that the question will be finally decided as to whether the writ petitioners are actually entitled to participate in the selection. It is only by way of an interim measure, which the learned Single Judge was entitled to pass that as he apparently felt, in the interest of justice, that the writ petitioners may be faced with a fait accompli of the selection having been completed that the interim order has been passed. Learned Single Judge has made it specifically subject to the final decision. In such circumstances, we are not inclined to interfere with the impugned order. The Appeal is, accordingly, dismissed, but we request the learned Single Judge to dispose of the writ petition as early as possible and if possible within a period of one month.

6. It is made clear that we have not made any observation on the merit of the case.

(V.K. Bist, J.)
30.04.2015

(K.M. Joseph, C.J.)
30.04.2015

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