

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5273 of 2016

Dr. Niraj Kumar Nikunj @ Niraj Kr. Nikunj, son of Sri Hari Bansh Rai, resident of Prem Niwas, Post Office Road Haripur Colony, Digha Ghat, Police Station- Digha, District- Patna.

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Chairman, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg (Bailey Road) Patna.
4. The Secretary, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg (Bailey Road) Patna.
5. The Joint Secretary cum Examination Controller, 15 Jawaharlal Nehru Marg (Bailey Road) Patna.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Dr. Harendra Nath Ojha, Advocate
Mr. Ramchandra Singh, Advocate
Mr. Shankar Kumar, Advocate
For the BPSC : Mr. Sanjay Pandey, Advocate
For the State : Mr. Pravin Kumar Verma, A.C. to S.C.26

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 29-04-2016

Annexure-16 is the list of candidates who have been declared ineligible for appointment on the post of Specialist Doctor (Basic Grade), Pediatrics against the Advertisement No. 03 of 2014. Since the name of the petitioner finds mentioned at Sl. 14, therefore, petitioner wants quashing of the list in relation to his name as well as a direction upon the respondent-Bihar Public Service Commission to recommend his case for appointment as a Specialist Doctor.

The following reasons have been provided against the

name of the petitioner for declaring him ineligible:-

“Ineligible (MD Degree is of 30.05.2015, after last date of submission of applications i.e. 27.11.2014, Original Regn. Cert. not produced for verification. Xerox Copy of result declaration dated 10.11.2014 issued by Joint Controller of Examination is attached with original application, but original copy not produced for verification).”

Submission of the Counsel for the petitioner is that since the award of the degree is made in a convocation and the date of the degree has been indicated as 30.05.2015 that by itself should not make the petitioner ineligible because he had annexed marksheet showing that he had already passed the M.D. Examination conducted by the concerned University. With regard to other two certificates not having been produced in original, it is not answered but explanation is that as and when it was made available and the same was produced.

The basic question which arises for consideration is whether the reason for rejection of the candidature of the petitioner in the category of ineligibility for the reasons indicated in the column of remarks can be said to be irrational, arbitrary and requires interference.

Counsel representing Bihar Public Service Commission

on the basis of the stand taken in the counter affidavit submits that the rejection is based on the facts and material which have been indicated in the list of ineligible candidates. There is no irrationality or any kind of mischief involved in declaring the petitioner ineligible because it states the facts as they are.

To buttress such a submission, Counsel for Bihar Public Service Commission further draws the attention of this Court to the various clauses in the advertisement, especially Clause 4 contained in Annexure-A as well as the Interview Letter issued to the candidates and the requirement and obligation upon each and every candidate to comply with, which is Annexure-C to the counter affidavit.

If the two provisions of Annexures-A and C are read together coupled with the rationale and reasoning provided for making the petitioner ineligible, the Court does not find any infirmity as to the reasons why the petitioner was declared ineligible. The explanation offered by the petitioner may not suffice because the advertisement very clearly indicates that the candidate must have all the requisite degrees and ought to have acquired the said degrees before the cut-off-date i.e. 27.11.2014.

The disconnect which is shown by the petitioner between the result and the award of degree, is difficult for this Court to bridge. The gap between the declaration of result and award of degrees, are

matters to be taken care of by the concerned Universities and the State authorities.

Since the respondent-Bihar Public Service Commission has committed no error with regard to the reasons, Court will not issue any mandamus or direction for recommending petitioner for such appointment.

Writ is dismissed.

(Ajay Kumar Tripathi, J)

Vats/-

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