

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2105 of 2013

In

Civil Writ Jurisdiction Case No. 6625 of 2004

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Binod Kumar S/O Late Bazir Gope Resident Of Kankarbagh, Gate No. 15,
P.S.- Patrakar Nagar, Dist.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar, Represented Through Secretary H.R.D. Govt. Of Bihar, Old Secretariate 'K.K. Rai' Building, Bailey Road, Patna
2. Dr. (Prof.) Shambhu Nath Sing (Vice Chancellor, Patna University), Patna
3. Ran Vijay Kumar Singh (Director Of Distance Education Patna University), Patna
4. University Employees Associations, Patna University, Patna (Naval Kishore Mishra)
5. Establishment Officer, Patna University, Through Registrar, Patna University, (Vikash Kumar Yadav)
6. Vikash Kumar Yadav (Registrar Patna University, Patna)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Patil, Adv.

For the Respondent/s : Mr. Lalit Kishore, PAAG

For the University : Mr. Ashok Kumar Keshri, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

9 05-08-2015 Heard learned counsel for the parties.

2. Mr. Ashok Kumar Keshri, learned counsel for Patna University, having filed supplementary show cause reply on behalf of respondent-University, has taken a stand that the order of this Court has been complied. He has also produced the result of the examination for appointment on the post of driver in Patna University dated 28.07.2015.

3. This Court having now found that the selection procedure as per the direction of this Court has already been complied and the selection committee has also made its recommendation would



drop the contempt proceeding, with a hope and belief that the successful person was now to be given the appointment which would erase the impression of this Court that the officials of the University and its Vice Chancellor were acting in a 'vindictive' manner against the petitioner only because of filing of this contempt application.

4. As a matter of fact, the submission of Mr. Keshri that the Vice Chancellor of Patna University feels aggrieved and offended for the use of word 'vindictive' against him in the earlier order dated 01.07.2015, has to be clarified by this Court that it had no intention to ascribe any imputation or motive on the Vice Chancellor of the Patna University. As a matter of fact, the records of this case would bear it out that the consideration for appointment had remained pending from 23.02.2013, and it has taken almost more than two and a half years for the opposite parties to comply the order of this Court in letter and spirit. The order of this Court dated 06.08.2014, 12.01.2015 and 16.01.2015 are by themselves evidence of the fact that the University initially had tried to overreach the direction of this Court. In this regard, the order of this Court dated 18.03.2015 and 25.03.2015, will further go to show that only when personal appearance of the Vice Chancellor was directed, steps were taken for advertising the post and undergoing selection process.

5. It was in fact in the background of all these events that this Court had passed an order on 01.07.2015, which is quoted hereinbelow:-

“Heard learned counsel for the parties at some length.

Pursuant to the earlier order of this Court Mr. Sudhir Kumar Srivastava, Registrar, Patna University has appeared in person and has filed a supplementary show cause reply, wherein it has been stated that in compliance of the order of this Court the single post of Driver was advertised by Patna University on 25.3.2015 and thereafter process of selection by way of written test, interview of the eligible candidates was conducted on 17.6.2015 and no candidate was found suitable by the Selection Committee for appointment on the post of Driver. The Registrar of the University as undertaken by him in paragraph no.8 of the supplementary show cause reply has also produced the records of the Selection Committee in three sealed cover.

This Court is amazed with the vindictive attitude of the Vice Chancellor of Patna University, inasmuch as it had taken him a period of more than 4½ years to even advertise the post as per the order of this Court dated 22.11.2010 in a writ petition filed by the petitioner in the year 2004 being C.W.J.C.No. 6625/2004. As a matter of fact the order of this Court in the present contempt application dated 12.1.2015, 16.1.2015, 18.3.2015 and 25.3.2015 by themselves would be evidence to the fact that after the Vice Chancellor was left with no explanation that he had undertaken to advertise the post and complete selection process for filling up the only post of Driver in Patna University.

From the records of the Selection Committee as produced by the Registrar of the University, it is quite surprising that for making an appointment on the post of Driver the Vice Chancellor himself had conducted interview with his other subordinate officers by excluding the Registrar of the University. Moreover the way in which the driving test was held even without informing the candidates of the norms of disqualification will go a long way to show that the Vice Chancellor somehow on being asked to appear in the present case at the instance of the petitioner was adamant to disqualify him. Not only that, the very fact that even best candidate having secured 71 marks in all out of total marks of 100 was disqualified on the ground that he had not submitted the paper relating to his experience. The advertisement nowhere talks of submitting any particular paper or experience certificate for award of point of experience. As noted above, the norms of the driving test and award of point for experience was also not disclosed to the candidates in the interview call letter or

even made public at the time of holding of the driving test and/or interview. This Court has in fact carefully perused the report of the driving test and has found that since the petitioner had allegedly gone out of range of the ring while appearing in the driving test that he was disqualified and given zero marks.

Amidst all these disturbing aspects this Court wanted to proceed further in the contempt matter but then Mr. Ashok Kumar Keshari, learned counsel appearing on behalf of Patna University, has persuaded that the University will be prepared to undertake a fresh driving test of all the candidates and award of marks for experience will be given on the basis of year of issuance of driving licence.

Having regard to the fact that the selection was made in four parts, namely, written test, driving test, interview and award of marks for experience, while this Court would not say anything as against the authorities of Patna University including the Vice Chancellor as with regard to process of written test, interview but then keeping in view obvious bias that gets reflected from the records of the Selection Committee produced before this Court, it will accept the submission of Mr. Kesari for holding a fresh driving test of all the candidates by a two Member Board consisting of Registrar and the Motor Vehicle Inspector, Patna. It is this Board which will again award marks for experience on the basis of parameters fixed but only by taking the date of issuance of licence to be the beginning point of experience. This two-man Selection Committee shall also specify the norms of driving test in the fresh call letter to be sent individually to all the candidates who had filed their application and had appeared in the written test and interview.

Mr. Kesari has assured this Court that everything will be done in a transparent manner and there will be a record of the proceedings of both the driving test of each of the candidate which will be videographed and produced before this Court alongwith fresh result of selection test based on the total marks secured by the candidates in the written test, driving test, interview and experience.

In view of the aforementioned assurance of Mr. Keshari this Court for the time being will not proceed in the contempt matter and will await for filing of fresh supplementary show cause reply by the Registrar of Patna University giving full details of process of selection as indicated in this order. The Registrar will be also under obligation to produce the relevant records of the Selection Committee pertaining to driving test as also award of marks for experience alongwith videography made at the time of conducting such selection test.

Let the papers produced by Mr. Keshari in three sealed cover be returned back to him for its being filed alongwith the supplementary show cause reply which also this time must accompany the fresh similar records of the

marks awarded by Selection Committee in respect of the driving test, and award of marks for experience.

Put up this case again on 29th July, 2015.

The personal appearance of Mr. Sudhir Kumar Srivastava, the Registrar of Patna University, is dispensed with for the time being.

Let a copy of this order be given to Mr. Ashok Kumar Keshari, learned counsel for Patna University."

6. Thus, it would become clear that the observations made

by this Court in the order dated 1.7.2015 were made on account of the abnormal delay being caused in compliance of the order of this Court. Now that the order has been complied, this Court will have no difficulty in clarifying that the word 'vindictive' used in the order dated 01.07.2015, was not to be treated to be a reflection/aspersion against the present Vice Chancellor.

7. With the aforementioned observation and clarification, this application is disposed of.

8. The sealed cover containing original documents and the CDs of the selection process are directed to be returned herewith to Mr. Keshri, learned counsel for the Patna University but, he must give the photocopy of the two documents which are produced before this Court today.

9. Let a copy of this order be handed over to Mr. Ashok Kumar Keshri, learned counsel for the Patna University.

(Mihir Kumar Jha, J)

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