

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17596 of 2015

Jayanti Prabha Bharti, daughter of Sri Braj Kishore Prasad Sinha, resident of Mohalla – Mahatma Nagar, South of Budha Dental College, P.S. – Patrakar Nagar District & Town - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Science and Technology Department, Government of Bihar, Patna
3. Director, Science and Technology Department, Government of Bihar, Patna Vishreshraiya Bhawan, Patna -1
4. Bihar Public Service Commission through its Chairman, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna – 1
5. Joint Secretary – cum – Examination Controller, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Patna -1

.... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad Singh, Sr. Advocate Mr. Sudhir Kumar
For the Respondent/s	:	Mr. SC33-Ritesh Kumar
For the B.P.S.C.	:	Mr. P. N. Shahi, Sr. Advocate Mr. Sanjay Pandey

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 27-11-2015

27.11.2015 Heard learned senior counsel for the petitioner, learned senior counsel for the B.P.S.C and counsel for the state.

Writ application has been filed by the petitioner when by virtue of Annexure-7 dated 15.10.2015 she was informed that she may not be permitted to sit for the written examination, being

conducted by the Bihar Public Service Commission (B.P.S.C.) for selection and recommendation on the post of Assistant Professor in Civil Engineering Colleges, run by the state of Bihar.

An advertisement No. 20 of 2014 was issued by BPSC on 22.08.2014. The advertisement is Annexure-2 to the writ application.

It is evident from reading of the advertisement that the last date for submission of applications before BPSC was fixed on 23.09.2014 by 5.00 P.M. In other words that is the cut off date fixed by BPSC for all candidates who are eligible in terms of the eligibility laid down in the advertisement.

Petitioner who did her M. Tech from the Delhi Technology University, New Delhi also became an applicant. However, since she has been barred from participation in the process of selection including participation in the examination, she has been compelled to approach the High Court through this writ application.

There are not too many disputes on the facts in the sense that the law is well settled that the last date of application is treated as the cut off date with regard to eligibility of candidates, who apply for consideration and selection. In other words all the requirements by way of



qualification, experience, etc. must be achieved before the cut off date.

In the present case the area of dispute is that the petitioner seems to have passed her M. Tech after the cut off date which is evident from Annexur-1/1. The date of issuance of the statement of marks is indicated as November 6, 2014 and the date of declaration of the result as indicated in the said certificate by the Controller of Examination is 22.10.2014.

Submission of the learned senior counsel of the petitioner is that the convocation was delayed. That was held on 12.11.2014, but the examination etc. was already completed much before the cut off date. It is just because of the holding of convocation there was some delay in issuance of the certificates, certifying passing of M. Tech, by the said university.

The flaw in the argument of the learned senior counsel is evident in the fact that convocation is always held after declaration of results. It is not co-terminus with the convocation. In this case, there can not be a better evidence of this fact since the date of declaration of the result has come to be printed in Annexure-1/1 itself. The institution represented through the Controller of Examination himself has certified in the statement of



marks that the date of declaration of the result was 22.10.2014.

If this be so, even if the examination may have been held prior to the so called cut off date fixed by BPSC, the fact that till the result of a candidate is declared by the examining authority and duly published, mere participation in the examination by a candidate can not create eligibility.

This issue, therefore, must rest against the petitioner. Petitioner has qualified or became eligible only on 22.10.2014, which is at least a month after the cut off date which was fixed as 23.09.2014.

In the alternative, it was also urged at the bar on behalf of the petitioner that the respondent-BPSC itself has extended the cut off date for a set of candidates or category of candidates, having degree of AMIE. The extended date for such category of candidates was fixed by BPSC as 05.05.2015. Initially, there was some dispute about their eligibility, but a decision was taken by the State Government and communicated to the B.P.S.C. and an extended date was given for them for applying and participating in the process. Even the petitioner, therefore, should be allowed to participate.

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The uniqueness of the decision taken with regard to persons having AMIE degree fall in a different class altogether. The whole block of persons having degrees from AMIE were initially disqualified or were held not to be eligible whatever be the reasons, but because of a conscious and policy decision taken, based on the inputs provided to the State Government, a special concession was made to people having a particular kind of degree which is AMIE.

The extension of date for such category of candidates does not make holders of other degrees also eligible to be considered within the extended date.

If the date has to be extended for the petitioner then it has to be extended across the board for all such candidates who may have passed the Engineering degree after 23.09.2014 and invite applications afresh. Since it is not possible to do so because it will become an unending story. Candidates do keep becoming eligible between the period when the process of selection was initiated and before it concludes.

Therefore, the petitioner will have to wait for the next round of recruitment and cannot be permitted to join the present process since earned her degree and

eligibility only after the cut-off date, i.e., 23.09.2014.

Writ application, therefore, has no merit, it is dismissed.

(Ajay Kumar Tripathi, J.)

