

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11032 of 2014

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1. Binay Kumar S/o Arjun Prasad Resident of Village Mai, P.O. Chiraily, P.S. Khizarsaray, District Gaya.
 2. Dr. Gopal Kumar S/o Late Bishwanath Prasad Resident of Mohalla Simli Chhoti Mandir Lane Patna City, P.S. Malsalami, District Patna.
 3. Dr. Sanjay Kumar S/o Madheshwar Pandit Resident of Village Badipur, P.S. Naubatpur, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Executive Director State Health Society, Bihar at Pariwar Kalyan Bhawan, Seikhpura, Patna-14.
3. The State of Bihar through Secretary, Health (Medical Education AND Indigenous) Department, State of Bihar, Patna, District Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Raj Kishore Prasad
Mr. Sudhir Kumar Sinha
For the State : Mr. Mr Raj Kumar Singh, AC to SC 8
For Respondent no.2 : Mr K. K. Sinha

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-01-2015

Petitioners want a direction upon respondent authorities to appoint them as Ayush Doctors on the basis of the terms and conditions of advertisement dated 23.9.2013, which is Annexure-1 to the writ application. A provisional list was prepared, extract thereof has been annexed as Annexure- 2. The names of these petitioners do figure therein but when it came to final appointment, they are still waiting a response from the respondents, which has not come.



Counsel for the petitioners formulates an argument that the respondent authority especially the State Health Society cannot alter the terms and conditions of the advertisement and since there was no provision for a written examination, the holding of a written examination and excluding the petitioners from participation is an exercise required to be struck down by the Court.

On the surface, the submission of the petitioners sounded logical and attractive but when the actual state of affairs have been explained by the respondent State Health Society in their counter affidavit then the reason for the State Health Society to embark on the exercise of holding an examination and appointing persons on the basis of the outcome of such exercise is not attributable to them. They have only carried out a judicial direction which was issued in CWJC No.22835 of 2013, decided on 16.5.2014. A copy of the said order is Annexure- A to the counter affidavit.

If this is the reason and the direction has come during the pendency of the exercise being carried out in terms of the advertisement contained in Annexure- 2 then the respondent authorities cannot be faulted for implementing a judicial order.

So long as that order stands, no other modality or

procedure can be exercised by the respondent Health Society for carrying out selection of Ayush Doctors. Writ application in the above circumstances is required to be dismissed. Petitioners have no case for selection or appointment on the basis of Annexure-1 alone.

(Ajay Kumar Tripathi, J)

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