

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3150 of 2015

=====

Satya Priya Kumar Sinha son of Late Swatantra Bhushan Resident At - E-16, J.P.Housing Society, Rajeev Nagar , Road No. 24T , P.O. - Keshari Nagar, District- Patna.

.... Petitioner

Versus

1. Bihar State Beverages Corporation Ltd. through its Chairman , Vidyut Bhawan , II, 1st Floor, Jawahar Lal Nehra , Marg, Patna-1.
2. Chairman , Bihar State Beverags Corporation Ltd. Vidyut Bhawan , II, 1st Floor , Jawahar Lal Nehru , Marg, Patna-1.
3. Managing Director, Beverages Corporation Ltd. Vidyut Bhawan , II, 1st Floor , Jawahar Lal Nehru , Marg, Patna-1

.... Respondents

with

Civil Writ Jurisdiction Case No.21139 of 2014

=====

Dilip Kumar Sinha Son of Late Janak Nandan Prasad C/o Shri Baldev Prasad, S.B.I. Campus IGI MS Branch, Mohalla - Sheikhpura Bagicha, P.S - Shastrinagar, Distt- Patna.

.... Petitioner

Versus

1. Bihar State Beverages Corporation Ltd through its Chairman, Vidyut Bhawan, II , 1st Floor, Jawahar Lal Nehru, Marg Patna -1
2. Chairman, Bihar State Beverages Corporation Ltd. Vidyut Bhawan, II , 1st Floor, Jawahar Lal Nehru Marg, Patna-1
3. Managing Director, Beverages Corporation Ltd. Vidyut Bhawan, II, 1st Floor Jawahar Lal Nehru, Marg, Patna -1

.... Respondent

with

Civil Writ Jurisdiction Case No.939 of 2015

=====

Satish Kumar Son of Late Girja Prasad Singh Resident of Village - Khairi Haranpur, P.O. - Mahisona, P.S. & District - Lakhisarai.

.... Petitioner

Versus

1. Bihar State Beverages Corporation Ltd. through its Chairman, Vidyut Bhawan, II 1st Floor, Jawahar Lal Nehru, Marg Patna-1.
2. Chairman, Bihar State Beverages Corporation Ltd. Vidyut Bhawan, II, 1st Floor, Jawahar Lal Nehru, Marg, Patna-1.
3. Managing Director, Beverages Corporation Ltd. Vidyut Bhawan, II, 1st Floor, Jawahar Lal Nehru, Marg, Patna-1.

.... Respondents

=====

Appearance :

(In CWJC No.3150 of 2015)

For the Petitioner/s : Mr. Baidh Nath Thakur, Adv.
Md. Fahimuddin, Adv.
For the Respondent/s : Mr. Vikas Kumar, Adv.

Mr. Girijish Kumar, Adv.
(In CWJC No.21139 of 2014)
For the Petitioner/s : Mr. Baidh Nath Thakur, Adv.
Md. Fahimuddin, Adv.
For the Respondent/s : Mr. Vikas Kumar, Adv.
Mr. Girijish Kumar, Adv.
(In CWJC No.939 of 2015)
For the Petitioner/s : Mr. Baidh Nath Thakur, Adv.
Md. Fahimuddin, Adv.
For the Respondent/s : Mr. Vikas Kumar, Adv.
Mr. Girijish Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 04-05-2015

Heard learned counsel for the petitioners in all these three cases wherein they have sought to assail a fresh advertisement issued by the Bihar State Beverages Corporation (hereinafter referred to as 'the Corporation') on the ground that even when their name had found place in the earlier panel and there were still vacancies left out to fill up those vacancies from that panel, they were not appointed and now the Corporation has to fill up those vacancies by issuing the impugned advertisement.

Learned counsel for the respondents having filed the counter affidavit had sought to explain that what ever vacancies were left out from the earlier transaction had already been made subject matter of fresh advertisement and therefore, now after expiry of the period of life of panel which was only for one year, the Corporation would find it difficult to appoint the petitioners on the basis of their names figuring in the panel.

In the considered opinion of this Court there are two



aspects which will go against the petitioners. Firstly, had the petitioners approached while the life of the panel was still surviving i.e. period of one year, this Court could have at least sought an explanation from the respondents as to why vacancies were not filled up specially when the name of the petitioners had figured in the panel. After expiry of the life of the panel this Court cannot issue a direction to the respondents to fill up those vacant post which has also now become subject matter of a fresh advertisement.

The law in this regard is also well settled that on account of mere empanelment no indefeasible right accrues to the candidate. Reference in this connection may be usefully made to the judgment of the Apex Court in the case of Shankarsan Dash v. Union of India, reported in AIR 1991 SC 1612.

The second aspect which would still be going against the petitioners is with regard to their prayer made in these writ applications. They have in fact questioned the fresh advertisement issued by the Corporation to fill up the vacant post. Once the advertisement has been issued, that has to be only tested on the anvil of Articles 14 and 16 of the Constitution of India. The Corporation in fact by issuing a fresh advertisement has done only what is required under Articles 14 and 16 of the Constitution of

India i.e. extending opportunity to all eligible concerned for competing for being appointed on the post in question. Such advertisement therefore cannot be quashed only because in the earlier panel the name of the petitioners had figured but they could not be appointed. The challenge of the petitioners to the fresh advertisement is therefore wholly misconceived.

Faced with this situation Mr. Thakur, learned counsel appearing on behalf of the petitioners, wants these writ applications to be withdrawn with a liberty to the petitioners to approach the Corporation by way of filing their representation.

This Court can never stop the petitioners from doing so but then whatever decision would taken by the Corporation must abide by the mandate of Articles 14 and 16 of the Constitution of India.

This Court however hopes and believes that if such representations are filed by the petitioners, they would be disposed of not only in accordance with law but also expeditiously.

With the aforementioned observations, these three writ applications are disposed of.

(Mihir Kumar Jha, J)

surendra/-

U			
---	--	--	--