

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 10835 of 2015

Govind Lal, Son of Shri Kundan Lal, Resident of Mohalla- Mainpura Bagicha, L.C.T. Ghat (Kuan Gali), beside of Chear Well P.S. Mainpura, P.O. Mainpura, at District- Patna-800001.

.... Petitioner/s

Versus

1. The Chief Executive officer-Cum-Managing Director, Oriented Bank of Commerce, Gurgaon (Haryana).
2. The Deputy General Manager, the Regional office of Oriental Bank of Commerce, 2nd Floor Chandrapura Palace West Gandhi Maidan(Bank Road) (Near Dadijee Temple) P.S. Gandhi Maidan at District- Patna-800001.
3. The Branch Manager, Oriental Bank of Commerce, Kankarbagh Branch, District- Patna-800020.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha

For the Respondent/s : Mr. Nishi Nath Ojha

For the Interveners: Mr. Kaushlesh Chaudhary

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 20-05-2016

Heard learned counsels for the parties.

Petitioner filed the writ application on 21.07.2015, seeking a direction upon the respondent-bank for consideration of his selection on the post of Peon-cum-House Keeper as a permanent employee in terms of the advertisement, which is Annexure-5 to the writ application.

As per the averments, petitioner belongs to scheduled caste and he has been rendering service as Peon-cum-House Keeper in a particular branch of the bank. He has brought evidence of such engagement by way of payments

made to him.

An advertisement was issued on 31.12.2014 by the bank for filling up number of vacancies under various reserved category on the post of Peon-cum-House Keeper. Petitioner was one of the persons, who responded, went through the process of selection and has not been selected. A series of affidavits and interlocutory application has been filed, raising hue and cry that the respondent bank rushed with the matter while the writ application was still pending and despite an observation of the Court that any appointment will be subject to the outcome of the writ application they accepted joining of others.

The core issue is whether the grievance of the petitioner against his non-selection can be the cause of action for interfering with the selection already made.

Since the facts with regard to the advertisement from open source cannot be a matter of dispute. The participation of the petitioner in the process of selection is also not a matter of dispute and the petitioner not performing well enough in the assessment viz-a-viz the three selected candidates, who were awarded more marks than the petitioner, the reason of non-selection of the petitioner is obvious is also not disputed

The law is well settled that a person cannot



participate in the process of selection and thereafter challenge it and the Courts are reluctant to entertain such writ applications, unless it is demonstrated that such action or decision falls foul of any law or the constitution of India.

The argument now veers around the right of the petitioner to be given weightage, if not appointment, because he has been working with the branch of the bank doing similar kind of services for which he has been given due remuneration.

A reading of the advertisement does not create an impression upon the Court that this was in any manner to regularize the services of such persons, whose services were being taken by the bank in any capacity, much less as Peon-cum-House Keeper.

It was an open competition where evaluation by the process of selection has been done and based on better performance in the category of scheduled caste, three persons came to be appointed. The argument of the counsel for the petitioner is as if he has a right as a matter of course to be appointed whether his performance is any better than the one who were selected.

The Court is satisfied that the only reason for non-appointment of the petitioner is not because of any kind of hanky-panky committed by the bank, but for the reason that



the petitioner did not perform and rank high enough in the merit list within his category of scheduled caste candidates to be given an opening on the post, which was advertised.

Writ application has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	20.05.2016
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