

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11565 of 2016

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Shashi Bhushan Kumar, Son of Sri Ramchandra Prasad Singh, Resident of Mohalla- Income Tax Colony, Bhooth Nath Road, P.S- Kankarbagh, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Department of Science and Technology, Government of Bihar, Patna.
4. The Additional Secretary, Department of Science and Technology, Government of Bihar, Patna.
5. The Director, Department of Science and Technology, Government of Bihar, Patna.
6. The Bihar Public Service Commission, through the Secretary.
7. The Chairman, Bihar Public Service Commission, Patna.
8. The Secretary, Bihar Public Service Commission, Patna.
9. Dr. Kumar Surendra, son of Late Mahour Prasad, presently posted as Deputy Director Planning, Department of Science and Technology, Government of Bihar, Patna
10. Dr. Nirmal Kumar, son of Late Suresh Kumar, presently posted as Prof Principal B.C.E. Bhagalpur, Bihar.

.... Respondents

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Appearance:

For the Petitioner	:	Mr. Ugranath Mathur, Advocate Mr. Lalitesh Mani, Advocate
For the State	:	AC to PAAG II
For the BPSC	:	Mr. Sanjay Pandey, Advocate
For Respondent no. 9	:	Mr. D.K.Sinha, Sr. Advocate Mr. Abhinay Raj, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 01-12-2016

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition said to be in public interest is



to seek quashing of notification dated 18th of May, 2016 appointing the respondent nos. 9 and 10 to the post of Principal of Engineering Colleges.

3. The Bihar Public Service Commission advertised six posts of Principal through Advertisement No. 7 of 2015. The respondent nos. 9 and 10 has been appointed as Principal in pursuance of such advertisement. In the counter affidavit filed on behalf of the respondent no. 9, it is submitted that the petition is not in public interest inasmuch as the brother of the petitioner was also an applicant for appointment to the post of Principal and was not selected due to lack of eligibility. He filed a Writ petition bearing CWJC No. 1052 of 2014 which was dismissed on 27th of February, 2015. LPA No. 900 of 2015 against the said order is pending. It is thus contended that the present petition is not a public interest litigation, but to espouse the case of his brother through the present proxy litigation.

4. We find that the present writ petition is not maintainable for two reasons. Firstly, Public Interest Litigation in service matters is not maintainable. The appointment of respondent nos. 9 and 10 as sought to be disputed by the petitioner who is not a contender for the post, but has invoked the jurisdiction of this court for the reason that his brother was declared ineligible. Therefore, in view of the judgment of a Division Bench of this Court in CWJC No.21601 of



2014 (Samrendra Kumar Sudhansu vs. The State of Bihar and others)
a Public Interest Litigation in service matters is not maintainable.

5. Still further, we find that the present writ petition lacks bona fide. The brother of the petitioner was a candidate for appointment to the post of Principal and was found ineligible. He has availed his remedy when he filed CWJC No. 1052 of 2014 which stands dismissed. Though the matter is pending in appeal but the fact remains that the brother of the petitioner is prosecuting his remedy in accordance with law. Therefore, the petitioner cannot be permitted to invoke the public interest jurisdiction for disputing the appointment of respondent nos. 9 and 10.

6. Considering the above, we do not find any merit in the writ petition, which is accordingly dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Chandran/Ibrar

AFR/NAFR	NAFR
CAV DATE	N.A.
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