

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16546 of 2015

=====

1. Harishanker Chauhan S/o Ramanand Singh, Resident of Village - Anand Vihar, P.O. Bhikhanpura, P.S. - Ahiyapur, Anchal - Mushhari, District - Muzaffarpur, Pin - 842004.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Sub Major, Assistant Director of Recruitment, Army Recruitment Office, Muzaffarpur.
3. The Commanding Officer, Army Recruitment Office, Muzaffarpur.
4. The State of Bihar through Collector, Muzaffarpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Siya Ram Shahi Ms. Shally Kumari
For Union of India	:	Mr. S D Sanjay, Addl. Solicitor General Mr. Ravinder Kumar Sharma, CGC
For the Respondent State:	:	Mr. Rewti Kant Raman, AC to GP31

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 27-06-2016

In a recruitment drive conducted by Army authorities in relation to the district of Muzaffarpur, petitioner asserts that he had qualified. However, instead of being appointed, the Army authorities cancelled his candidature in terms of Annexure-7 dated 2nd September, 2015. The reason for cancellation of candidature is said to be use of multiple nativity certificate in different rallies in which petitioner participated, in violation of the provision of the advertisement.

2. The facts are that the Army authorities stationed at Muzaffarpur issued an advertisement for recruitment in certain districts which will be evident from the advertisement contained in Annexure 2 to the counter affidavit, filed on behalf of Union of India. The nativity of a



candidate is important for such participation in the rallies because recruitment is required to be made, district-wise. The declaration with supporting certificates made by a candidate was to decide the nativity of such participants. During the course of verification the petitioner who qualified in the recruitment rally conducted at Muzaffarpur was found to have had earlier participated in the rally conducted for the district of Madhubani and he had produced certificates of various authorities to show his nativity of Madhubani. Initially a show cause was issued to the petitioner that he has used forged documents to participate in the rally for the district of Muzaffarpur but subsequently when Annexure-7 was issued the ground given is that he had used multiple nativity certificates for participation in different rallies, which is not permissible.

3. Submission of the counsel for the petitioner is that the reason for the show cause, contained in Annexure-5, does not tally with the reason for cancellation of the candidature. Annexure-5 indicates use of forged documents and Annexure-7 shows use of multiple nativity certificates. This is good enough for the Court to quash Annexure-7.

4. The stand of the Union of India is that when the authorities found two different certificates showing nativity of Muzaffarpur and Madhubani, the authorities treated the multiple certificates to be a case of forged certificates which was sought to be used for the rally of Muzaffarpur. However, it transpired that the petitioner had procured two set of certifications, one from the authorities of Madhubani and other from the authorities of Muzaffarpur. In the advertisement, contained in Annexure-2 to the counter affidavit, Clause 5 (Ta) specifically lays down that use of multiple nativity certificates and participation in different rallies in different

districts would amount to a disqualification and it will be treated as a case of forged recruitment.

5. What the petitioner has tried to do is to participate in different rallies by showing to be a permanent resident or native of two different districts. It is not possible for a person to be a native of two different districts that too within a period of less than a year of conduct of the rally for such recruitment in two districts.

6. The reason therefore of disqualifying the petitioner is attributable to the petitioner because he tried to circumvent as well as overreach the provisions of the advertisement.

7. There were reasons for the petitioner to procure materials and certifications from Muzaffarpur especially since he had failed to qualify in the rally conducted for the district of Madhubani. The Court, therefore, will not encourage this kind of innovation or approach to be committed by any candidate for recruitment in the army when the advertisement debars such persons in case they get recruited as well.

8. Learned counsel for the petitioner submits that petitioner's Madhubani certificate should be treated to be cancelled and the Muzaffarpur certificate should be treated to be valid.

9. The Court is not willing to accede to the request of the counsel for the simple reason that it is the Muzaffarpur certificate which has been used for the purpose of the second rally. If this Court accepts the position with regard to validity of Muzaffarpur nativity certificate, naturally petitioner succeeds in his game by using 2nd set of certificate procured from Muzaffarpur.

10. In fact, petitioner should be pinned down to the original

certificate which he had used for the rally in the district of Madhubani and it shall alone be treated to be valid in any future recruitment in this regard.

11. Writ application is dismissed with above observation.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	28/06/2016
Transmission Date	