

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.771 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 11951 of 2012
Along with
Interlocutory Application No.3199 of 2015

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Niranjan Prasad, son of late Suresh Prasad, resident of Village- Gangapur, P.S. Hulasganj, District Jehanabad.

.... Appellant/s

Versus

1. The Vice Chancellor Magadh University, Bodh Gaya, Bihar.
2. The Registrar, Magadh University, Bodh Gaya, Bihar.
3. The Secretary, Maha Bodhi College, Nalanda.
4. The Principal, Maha Bodhi College, Nalanda.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sheo Kumar Prasad
Mr. Alok Kumar Jha, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 11-08-2016

Re.: Interlocutory Application No.3199 of 2015

The application is for condonation of delay of one day in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.771 of 2015

The challenge in the present Letters Patent Appeal is to an order dated 13th July, 2012 whereby the writ application filed by the appellant seeking appointment as Lecturer in the faculty of Commerce was dismissed on the ground of delay and laches.

2. As per the appellant, an advertisement was published inviting applications for the post of Lecturer in Commerce in the year 1994. The appellant was informed on 6th June, 1997, that his name has been recommended for appointment, but no letter of appointment was issued. Aggrieved against his non-appointment, he invoked the jurisdiction of this Court in the year 2012.

3. It is well settled that mere fact that the candidate stands selected does not confer any right of appointment. Still further, right if any, accrued in the year 1997 or soon thereafter. However, the appellant invoked the jurisdiction of this Court in the year 2012 i.e. almost 15 years later. The fact that selection does not confer any right has been examined recently by the Hon'ble Supreme Court in Kulwinder Pal Singh and another v. State of Punjab and others, A.I.R. 2016 Supreme Court 2281, wherein the Court held to the following effect:-

“11. It is fairly well-settled that merely because the name of a candidate finds place in the select list, it would not give him indefeasible right to get an appointment as well. The name of a

candidate may appear in the merit list but he has no indefeasible right to an appointment (vide Food Corporation of India and Ors. v. Bhanu Lodh and Ors., (2005) 3 SCC 618 : (AIR 2005 SC 2775); All India SC & ST Employees' Association & Anr. v. A. Arthur Jeen & Ors. (2001) 6 SCC 380 : (AIR 2001 SC 1851) and Union of Public Service Commission v. Gaurav Dwivedi and Ors. (1999) 5 SCC 180 : (AIR 1999 SC 2137).

12. This Court again in the case of State of Orissa & Anr. v. Rajkishore Nanda and Ors. (2010) 6 SCC 777 : (AIR 2010 SC 2100, paras 13, 15), held as under:

“14. A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for the purpose of appointment and by itself does not amount to selection or create a vested right to be appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate.

16. A select list cannot be treated as a reservoir for the purpose of appointments, that vacancy can be filled up taking the names from that list as and when it is so required...”

13. In Manoj Manu and Anr. v. Union of India & Ors. 2013 (10) SCALE 204: (2013) 12 SCC 171 : (AIR 2014 SC (Supp) 927), it was held that merely because the name of a candidate finds place in the select list, it would not give the candidate an indefeasible right to get an appointment as well. It is always open to the government not to fill up the vacancies, however, such decision should not be arbitrary or unreasonable. Once the decision is found to be based on some valid reason, the court would not issue any mandamus to government to fill up the vacancies. As noticed earlier, because twenty two other candidates were declared successful by the Supreme Court pertaining to the selection of the years 1998, 1999, 2000 and 2001 as Civil Judges (Junior Division), they were to be accommodated, as rightly resolved by the Administrative Committee in the meeting dated

06.07.2011. The three resultant vacancies of the year 2007- 2008 stood consumed with the joining of the said seventeen candidates and the same could not be filled up from the select list of that year. The decision of the Administrative Committee observing that the three resultant vacancies stood consumed is based on factual situation arising there and cannot be said to be arbitrary.”

4. As per the aforesaid judgment, mere selection does not confer any enforceable right. Still further, the appellant has invoked the writ jurisdiction after gross delay as well.

5. In view thereof, we do not find any merit in the present Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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