

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17070 of 2015

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1. Rupak Kumar Sinha Son of Sri Srikant Prasad Singh Road No. 2, House No. 10, Mohalla - Indrapuri, P.O. Keasaringar, P.S., Patliputra, Dist.-Patna, Bihar
 2. Sanjay Kumar, Son of Satya Narayan Sharma Resident of Desh Ratan Path, Vijay Nagar, Hanuman Nagar, P.S.-Kankarbagh, Dist-Patna, Bihar

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. Principal secretary, General Administration Department, government of Bihar, Patna
3. Principal secretary, Food and Consumer Protection Department, Government of Bihar, Patna
4. Bihar State Food and Civil Supply Corporation through its Managing Director, East Boring Canal Road, Buddha colony, Patna, Bihar 800001
5. Bihar Combined Entrance Competitive Examination Board through its Chairman, I.A.S Association Building, Near Airport, Patna
6. Chairman, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Airport, Patna
7. Member Secretary, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Airport, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s :	Mr. Kumar Kaushik
For the Respondent/s :	Mr. S.P. Singh- GA7
For the BSFC:	Mr. Anjani Kumar, Sr. Advocate
	Mr. Shailendra Kumar Singh
For the B.P.S.C.:	Mr. Vikas Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 11-02-2016

Heard learned counsel for the parties.

An advertisement was issued by Bihar State Food and Civil Supplies Corporation in terms of Annexure-1. Applications were invited for the post of Assistant Manager and Assistant Accountant. The number of vacancies, the reservation etc. are indicated in the advertisement itself.

The issue here is that these two petitioners have not been given an opportunity to participate in the examination, since they are over-age by the yardstick, laid down in the advertisement. The two petitioners belong to general category and the maximum age permissible for them is 37 years.

These petitioners are said to be in the range of 41-42 years.

The primary ground on which the writ application has been filed is a circular of the Department of Personnel and Administrative Reforms, as it was known then and is dated 23.01.2006. The said circular has been annexed as Annexure-2. This circular does talk in terms of granting benefit of relaxation in age up to 5 years, if there is a long gap in the previous advertisement or recruitment and when a new advertisement is issued. This circular, therefore, does envisage relaxation in age. However, the circular, in question, talks about examinations held by B.P.S.C. alone.

The two aspects of the matter, which emerges for consideration is whether Annexure-2 in any manner can bind the corporation, since it is an independent corporate entity, even if it is an instrumentality of the State. In the opinion of the Court, Annexure-2 cannot be extended or thrust upon the respondent-corporation as a matter of right. If the corporation decides to adopt the same, it is another issue.

The other aspect of the matter is that even if for the sake of argument Annexure-2 is held to be applicable for the present advertisement, contained in Annexure-1, the last of the advertisement for such recruitment in the corporation was issued in the year 1982. At that time, both the petitioners were in the age group of 5 to 6 years. The benefit which Annexure – 2 contemplates, can never be extended now at this stage, because the circular has to be applied in the right letter and spirit thereof.

In view of the above, there is no case made out for giving a direction upon the respondents to permit the petitioners to participate in the examination over the age fixed for recruitment.

The Court is further informed that the recruitment exercise has already moved ahead after conduct and declaration of results.

Writ application has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

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