

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18820 of 2015

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Dr. Ritesh Kumar Tarun, Son of Pawan Kumar Prasad, resident of Village -
Bajrang Bagh, P.O. & P.S. - Hilsa, District - Nalanda.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. The Bihar Public Service Commission, Patna through its Chairman.
4. The Secretary, Bihar Public Service Commission, Patna.
5. The Medical Council of India through its Chairman.
6. The Secretary, Ministry of Health and Family Welfare, Govt. of India, New Delhi.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Prashant Sinha, Advocate
For B.P.S.C.	:	Mr. Sanjay Pandey, Advocate
For U.O.I.	:	Ms. Kanak Verma, C.G.C.
For the State	:	Mr. Avnindra Kumar Jha, A.C. to A.A.G.13
For M.C.I.	:	Mr. Kumar Brijnandan, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 14-01-2016

Petitioner was one of the applicants for appointment on the post of General Duty Medical Officer under the respondent-State of Bihar. In response to the advertisement issued by Bihar Public Service Commission (hereinafter referred to as 'B.P.S.C.'), he went through the process of selection but was ultimately not selected. Now he has moved the High Court making a grievance that one of the reason for his non-selection is non-award of ten marks despite the petitioner holding a diploma in orthopedic in post-graduation which is a recognized degree by M.C.I. The whole thrust of the pleading in the writ application is non-award of ten marks against the post-graduate diploma in orthopedic. The Court, therefore, directed B.P.S.C. to file

their response as to why they have adopted such a position with regard to the petitioner.

2. In the counter affidavit, another story is revealed. B.P.S.C. takes a plea that they have refused to award him marks not on the ground that the diploma in question is non-recognized but on the ground of non-production of the original certificate/diploma at the time of interview. This fact is borne out even from the application form filled in by the petitioner himself where it is indicated that he had only annexed the mark-sheet and not the certificate as a proof of the qualification he was holding.

3. B.P.S.C. also clearly states in the counter affidavit that the petitioner had also failed to produce the caste certificate for which he had given an undertaking and time frame. The non-award of marks has nothing to do with recognition or non-recognition by M.C.I.

4. Counsel for the petitioner takes a plea thereafter that the respondents had given him marks even in M.B.B.S. though he could only annex the mark-sheet of M.B.B.S. and there is no reason why they have not done so with regard to the diploma.

5. The requirements to produce the original certificates or diplomas were clearly indicated in the advertisement itself to all the candidates who wanted to be considered at least at the time of interview. There was no ambiguity with regard to what a candidate

was required to do at the time of interview. After the interview was completed, two notices were issued by B.P.S.C. directing the candidates to complete the formalities by a time frame if they had failed to do so in terms of the advertisement. Adequate opportunity thus was extended but still there were candidates like the petitioner who failed to meet the requirements before declaration of the result.

6. If there is omission on the part of the petitioner and if the petitioner had deliberately tried to mislead the Court by making out a case that non-award of marks for the diploma was on account of the said diploma and not being given recognition by B.P.S.C., then obviously an effort has been made to beget relief on a mis-leading kind of pleadings and submissions in this regard by the petitioner. The reason for non-award of marks to the petitioner for diploma is attributable to the petitioner and his failure to comply with the direction and the concession given by B.P.S.C. in this regard is the primary reason not attributable to B.P.S.C. There is no unreasonableness in the decision.

7. No further indulgence is required to be shown with regard to the issue. Writ application has no merit and it is dismissed.

(Ajay Kumar Tripathi, J.)

Sanjay/-

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