

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18837 of 2015

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1. Aditya Kumar Son of Dr. Devilal Yadav resident of At + P.O. Mathiya Jamuhar,
P.S. Lauria, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. Principal Secretary, Department of Rural Development, Govt. of Bihar
3. Director, JEEVIKA, District Project Coordination Unit 5th Floor, Biscoman
Bhawan, Gandhi Maidan, Patna
4. Chief Executive Officer, Jeevika, Bihar Rural Livelihoods Promotion Society, 5th
Floor, Biscouman Bhawan, Gandhi Maidan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Anita Kumari
Ms Kumari Ranjana Bharti
For the State : Mr. Khurshid Alam, AAG 10
Mrs Nutal Sahay, AC to AAG 10
For Respondent 3& 4 : Mr Abhinav Shrivastava

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 01-08-2016

Heard counsel for the petitioner and counsel for Jeevika
i.e. respondent no.3 and 4 as well as the State.

For filling up certain posts in the organization an
advertisement was issued inviting application online. Petitioner was
one of the candidates, who applied filling in the necessary details.
Based on the declaration, his application was processed. So far as
petitioner is concerned, the post in question was Block Project
Manager.

After going through the process of selection, the
respondents issued a notice on the website indicating the roll number,
name, the position so applied and reason for putting on hold the case

of joining of such candidates. The list in question has been brought on record as Annexure- 12 by the petitioner himself. His name figures at serial no.8.

From a perusal of Annexure- 12 it is evident that there was a mismatch in the category of caste which the petitioner had indicated in the application form vis- a- vis his actual caste. The petitioner in the application form showed himself to be belonging to EBC category when he actually belongs to OBC category. This is the only and primary reason for the petitioner to lose out on the selection and appointment. That is the reason for filing of the writ application as well as for a direction.

Submission of the counsel for the petitioner is that it was a case of apparent error out of stress and strain as well as the kind of responsibility which the petitioner was shouldering before applying for this opening. When he realized his folly he made all efforts to sound the respondents on the issue and in support thereof large number of documents has been annexed with the writ application showing the details of the efforts made.

Submission is that the petitioner should not be punished for a minor omission as well as the fact that he was permitted to go through the process all along without any kind of objection in this regard at any stage but for at the time of actual joining.

The counter affidavit of the respondents 3 and 4 states



that every candidate was to make an honest and truthful declaration with regard to the inputs, which was sought online. In addition to that, the respondent authorities had also given a window of opening for making any correction in relation to any of the columns, if a mistake had crept in. This window was open for 28 days i.e. from 18.3.2014 to 15.4.2014. Petitioner chose not to make any correction in his online application. The application form was processed in the category of EBC and on final verification when it was found that he actually belongs to OBC category, his result was put on hold and joining was also put on hold.

A very strenuous effort has been made by learned counsel appearing for the petitioner as to why he was prevented from making corrections. He was working in an organization which had its own stress and demand of responsibility. However, his bona fide should be considered in the manner in which he had approached the respondents for making corrections and request made from time to time.

The reason for non-acceptance of joining or appointment of the petitioner is not a standalone kind of issue raised. Large number of candidates, who had made a wrong declaration, were put in the same category after the process of selection had been undergone and the results had been declared on the basis of category so indicated by a candidate. Any change in the same will be giving an opportunity

of further litigation by candidates, who had already been selected and permitted to join. The reason for non-joining after selection of the petitioner, therefore, is attributable to him. If the plea of human error is accepted on the face value then such matters will never come to rest and that plea will generate number of problems in final decision making, in matters of appointment in a public domain.

Since the petitioner is well qualified as well as belongs to the State of Bihar, which is a politically and caste conscious State, the status with regard to his caste and the reservation which he claimed on the basis of such case is generally and widely known. If he was an applicant for a class IV or Class III post may be the Court would have given the benefit of doubt. However, in totality, since the petitioner has erred and erred twice over by not even making an effort to correct the mistake within the time frame provided by the respondents, the Court will not extend such opportunity after the decision has reached finality after due process.

The writ application, therefore, is dismissed being devoid of merit.

(Ajay Kumar Tripathi, J)

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