

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.49 of 2015

IN

Civil Writ Jurisdiction Case No. 20127 of 2010

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Shailesh Kumar son of Late Ram Chandra Choudhary, resident of M-91, Shahid Bhagat Singh Colony , Murtaphabad, P.S. & P.O.- Rampur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Human Resource Development Department, Government of Bihar, New Secretariat, Patna.
3. A.N. Sinha Institute of Social Studies through its Director, Gandhi Maidan, P.S. - Kotwali, District- Patna.
4. The Director, A.N. Sinha Institute of Social Studies, Gandhi Maidan , P.S. - Gandhi Maidan, District- Patna.
5. The Secretary, A.N. Sinha Institute of Social Studies, Gandhi Maidan, P.S. - Gandhi Maidan, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Abhinav Srivastava, Advocate
For the State : Mr. Ashok Kumar Dubey, AC to AAG-11
For Respondent No.3 to 5 : Mr. Lalit Kishore, Sr. Advocate
Mr. Piyush Lall, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

Date: 15-11-2016

Heard learned counsel for the petitioner and learned counsels for the State and for the A.N. Sinha Institute of Social Studies.

The application has been filed for review of the order dated 14.12.2010 passed by this Court in C.W.J.C. No.20127 of 2010, by which the writ application had been dismissed.

The writ application was filed for a direction to the respondents to consider and appoint the petitioner, who belongs to the Scheduled Caste category, on the post of Lecturer in the department of Economics in the light of the advertisement. Under the said



advertisement two posts of Lecturer and Reader had been advertised, the post of Lecturer was reserved for B.C.1 category and the post of Reader was for General category and the petitioner does not lay any claim for the post of Reader. In the circumstances, this Court finding no merit dismissed the writ petition.

Thereafter another writ application, C.W.J.C. No.8703 of 2011 was filed by the petitioner again seeking direction to the respondents to consider and appoint the petitioner on the post of Lecturer in the Department of Economics on the basis of advertisement dated 5.12.2009. This Court considered the fact that the earlier writ petition had been dismissed and, therefore, the second writ application was not maintainable as the petitioner had repeatedly filed the writ petition for the same relief and accordingly dismissed the same as not maintainable.

Learned counsel for the respondent A.N. Sinha Institute of Social Studies at that stage informed the Court that no appointment had been made against the advertisement dated 5.12.2009 but only against subsequent advertisement, for which liberty was granted without expressing any view on the merit or maintainability of the writ petition to be filed by the petitioner.

Thereafter the third writ application, C.W.J.C. No.9137 of 2012 was filed by the petitioner in which by order dated 5.5.2014 the Court observed that the entire selection process pursuant to the



advertisement dated 8.5.2010 was sought to be challenged at the stage of hearing before this Court on the ground that the respondents did not follow the norms for selection as prescribed in the advertisement itself, at which this Court finding that the writ application does not contain foundational facts in support of the submission as made by learned counsel for the petitioner and accordingly granted permission to withdraw the writ application with a liberty to file another writ application questioning the validity of the selection process pursuant to the advertisement dated 8.5.2010. It was again made clear that the liberty granted would not mean any expression on the merits/maintainability of the writ application to be filed by the petitioner.

Thereafter the present civil review application has been filed.

Learned counsel for the petitioner submits that the review has been sought on account of failure of the petitioner to bring certain important documents having direct bearing on the issues involved in the said case and moreover the advertisement dated 8.5.2010 manifestly demonstrates that altogether two posts of Lecturers were reserved for the candidates of Scheduled Caste category, despite which the petitioner had not been appointed and the action of the respondents in not appointing the petitioner, who was at serial No.2 in the panel, and appointing only the first candidate in the



panel is not justified.

Learned counsel for the A.N. Sinha Institute submits that the writ application itself had been filed assailing the non-appointment of the petitioner pursuant to the advertisement dated 5.12.2009 and thus there could be no issue with regard to non-filing of any relevant document, etc. It is submitted that it is not open in the review application for the petitioner to place reliance upon the subsequent advertisement dated 8.5.2010 which was not the subject matter of the first writ petition nor, in fact, of the second writ petition.

On a consideration of the aforesaid submission, I am not inclined to accept the submission made by learned counsel for the petitioner. The writ petitioner cannot be permitted to expand the scope of the first writ petition under the garb of a review application. The petitioner having earlier filed two writ petitions and thereafter the third relying upon the advertisement dated 8.5.2010, it is not open to him to go back to the first writ application and claim a review with regard to something which was outside the purview of the writ application.

The review application is, accordingly, dismissed.

Narendra/-

(Ramesh Kumar Datta, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.12.2016
Transmission Date	N.A.

