

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7399 of 2013

Dr. Upendra Narayan Thakur Son Of Late Heera Thakur Resident Of Flat No. D-203, Amarkunj Apartment, Vivekanand Marg, North Sri Krishnapuri, District And Town: Patna- 800013, Bihar

.... Petitioner/s

Versus

1. The State Of Bihar Represented Through The Principal Secretary, General Administration Department, Government Of Bihar, Patna
2. The Principal Secretary, Health Department, Government Of Bihar, Patna
3. The District Magistrate, Darbhanga
4. The Sub Divisional Officer, Darbhanga Sadar, Darbhanga
5. The Circle Officer, Hayaghat, Darbhanga
6. The Bihar Public Commission Through Its Secretary, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna- 800001
7. The Secretary, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna- 800001
8. The Examination Controller, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna- 800001

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Adv.
Mr. Samir Kumar, Adv.
Mr. Prince Kr. Mishra, Adv.
For the BPSC : Mr. Sanjay Kumar, Adv.
For the State : Mr. Arvind Kumar, AC to SC-28

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-04-2016

Heard learned counsel for the petitioner and counsel for the State.

In this case, the petitioner seeks a relief for appointment to the post of Assistant Professor claiming to be belonging to extremely backward category (EBC) as he does not fall in the creamy layer.

The Bihar Public Service Commission had issued an advertisement for the purpose of appointment of Assistant Professor (Medicine). Altogether 394 posts of Assistant Professors were advertised



including 26 posts for Assistant Professor (Medicine) in which 13 posts were for General, 4 for Schedule Caste, 5 for E.B.C., 3 to Backward and 1 for Backward Female. The petitioner had applied for the post of Assistant Professor claiming to be belonging to Extremely Backward Category excluding the creamy layer but, admittedly the fact is that he has not produced the certificate at the time of interview and, on that ground, the case of the petitioner could not be considered in that category but treated as General category. As per advertisement, all the certificates, in original, were to be produced on the day of the respective date of interview of the candidates and that will be treated to be the last date for production of all certificate including caste certificate. The petitioner was called for interview with clear cut instruction of production of all certificates in original including his caste certificate. As he could not produce the caste certificate, he was treated to be belonging to general candidate and the cut-off marks of the general candidate was 32 whereas the petitioner has got 29.18 marks, below the generally category candidate. As the petitioner could not produce the certificate of EBC category and, so much so, that he could not compete with the general category candidate, the petitioner could not be selected.

Learned counsel for the petitioner submits that by that time he could not produce his caste certificate as obtained the certificate later on but as and when he could get it, he produced the same but, the Commission did not pay any heed to the situation and submitted that the petitioner has suffered on account of the negligence on the part of the State Authority.

Whatever may be the situation, if the advertisement provides that the candidate is required to produce the certificate by a particular date, the candidates are supposed to produce the same. The Full Bench of this Court has already settled the issue in the case of Braj Kishore Prasad & Ors. Vs. The State of Bihar & Ors. reported in 1998(3) PLJR 35.

In such view of the matter, when the Full Court has already settled the issue, in question, the action of the Commission cannot be said to be bad as the case of the petitioner could not be considered in the EBC Category and, so much so, that he could not compete with the general candidate, he has not been selected.

This Court does not find any error in the action of the Commission in not recommending the name of the petitioner as a selected candidate to the Government.

With the aforementioned observation, this application is dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
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