

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13030 of 2016

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1. Vibhuti Kumar Son of Sri Bashishth Narayan Choudhary resident of village - Kalyanpur Basti, P.O. Kalyanpur Basti, P.S. Mohiuddin Nagar, District Samastipur at Present residing at Sri Narayan Niwas, Rajeev Nagar, 18/24 Link Road, P.S. Rajeev Nagar, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Director, Secondary Education, Department of Education, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Sandip Kumar
Mr. Ajit Kumar

For the Respondent/s : Smt. Shilpa Singh, GA 12
Mr Ranjan Kumar, AC to GA 12

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 04-10-2016

Petitioner claims himself to be one of the eligible persons for appointment as a Science Teacher in the Secondary Schools of Bihar since he has passed the Bihar Secondary Teacher Eligibility Test of 2011.

The grievance of the petitioner is that despite the petitioner having been declared qualified in the said TET with 61.33% of marks, the respondent authorities by changing the yardstick and the modality with regard to educational qualification, eliminated the petitioner from the zone of consideration and, therefore, the writ application.

The stand of the State is that the petitioner is not eligible to be appointed as a Science Teacher. The position indicated in paragraph 7 of the counter affidavit in fact is reproduced herein below since the fact stated therein is the core issue.

“7. That the petitioner has raised his grievance that his case for appointment is not being considered on the ground that the petitioner chose physics and Biology in BSITET whereas as per clarification issued by the Education Department the candidates opting for Science Teacher ought to have qualified in BSITET 2011 with Chemistry and Botany and Zoology were exclusively eligible to be considered. Thus the candidate having cleared TET with Biology and Chemistry are being considered for appointment whereas persons like the petitioner having qualified TET with Physics and Biology are not being considered for appointment as teacher.”

Annexure- 2 is the result declared of the petitioner. The subject group indicated therein is Physics and Biology. It is not a matter of dispute because it is a matter of record.

If the petitioner has qualified in the two papers and if the State want to hire people with different qualification with Chemistry and either Botany or Zoology, the Court will not issue a mandamus to read more qualification and eligibility over and above what the respondents have decided to recruit as a class.

Counsel for the State categorically states before the Court that not only the petitioner but large number of persons, who

have qualified in Physics and Biology are not being recruited on the post because the State is not looking for any kind of recruitment with qualification of the two kinds. There is no discrimination practised by the State.

Counsel for the petitioner as a desperate measure draws the attention of the Court to Annexure-3, especially at page 23, to convince the Court that there is a deviation from what the State was originally looking for by issuing Annexure- 3 and what they have had to say with regard to science. It is a misplaced kind of submission on behalf of the petitioner because Annexure- 3 by itself indicates that these are basically questions and answers, which have been given to frequently asked questions, as a matter of clarity in such recruitment. It is not any change or amendment to the original eligibility and qualification, which is essential for appointment as a Science Teacher.

Writ application, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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