

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3511 of 2016

Sanjeet Kumar Sinha, son of Late Sachchidanand Sinha, resident of J - 105, P.C. Colony, Kankarbagh, P.S. Kankarbagh, District Patna.

.... Petitioner

Versus

1. The High Court of Judicature at Patna through its Registrar General.
2. The Registrar General, High Court of Judicature at Patna.
3. The Registrar Appointment, High Court of Judicature at Patna.
4. The Selection Committee, District Judge, Entry Level - 2015, High Court of Judicature at Patna.

.... Respondents

with

Civil Writ Jurisdiction Case No. 4297 of 2016

Ranjeet Kumar, Son of Shri Gangadhar Lal Das, Permanent Resident of Flat No. 202 - A. Harihar Apartment, East of Shyamal Hospital, Magistrate Colony, Khajpura, District - Patna, Bihar, at present residing at resident of Flat No. 7, Block No. 4, Archana Complex, South TT Nagar, Near 2nd Stop, Bhopal, Madhya Pradesh.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The High Court of Judicature at Patna through its Registrar General.
3. The Registrar General, High Court of Judicature at Patna.
4. The Registrar (Appointment), High Court of Judicature at Patna.
5. The Selection Committee, (District Judge - Entry Level - 2015), High Court of Judicature at Patna.

.... Respondents

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Appearance :

(In CWJC No. 3511 of 2016)

For the Petitioner : Mr. Sandeep Kumar, Advocate.
Mr. Ashutosh Kumar Jha, Advocate.
For the Respondents : Mr. Piyush Lal, Advocate.

(In CWJC No. 4297 of 2016)

For the Petitioner : Mr. Dinu Kumar, Advocate.
Mr. Manoj Kumar, Advocate.
Mr. Rajesh Kumar, Advocate.

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI, ACJ

and

HONOURABLE MR. JUSTICE HEMANT GUPTA

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 12-05-2016

This order shall dispose of the above said two writ applications as common questions of law and facts are involved in these cases.

2. The petitioner in C.W.J.C. No. 3511 of 2016 is whole time employee of National Seeds Corporation Limited, whereas the petitioner in C.W.J.C. No. 4297 of 2016 is a whole time employee of Canara Bank. The petitioners have sought to contend that in terms of Article 233 of the Constitution of India, they are eligible for appointment to the post of District Judge Entry Level (Direct from Bar) Examination, 2015, on the ground that as employees of National Seeds Corporation Limited or that of Canara Bank, they do not cease to be an Advocate.

3. The petitioners appeared in the Preliminary Examination held for appointment to the post of District Judge Entry

Level (Direct from Bar) and were successful. They were allowed to appear in the Mains Examination and were successful in the Mains Examination as well. The petitioners were called for interview, but subject to condition to bring 'No-Objection Certificate from the employer'. The petitioners communicated that it will not be possible to obtain 'No Objection Certificate' in the short span of time. The petitioners proceeded to appear for interview, then, they received a message that they were not practicing Advocate, but in full time corporate employment and they were, therefore, ineligible to appear in the interview. The Public Notice reads as under:-

"PATNA HIGH COURT

NOTICE

On preliminary scrutiny of the online applications filled up by the candidates and scanned copies of the documents uploaded by them on the website of the Court, it has been found that following candidates are not practicing as an Advocate but are in full time corporate employment. As such, these candidates are ineligible to appear in the interview-

*Roll No. 1) 1111001588 2) 1111003880
3) 1111006565*

Further, following candidates would be permitted to appear in the interview, subject to satisfying the High Court that they fulfill the eligibility criteria as laid down in Article 233(2) of the Constitution of India-

Roll No. 1) 1111004676 2) 1111000890

By order of the Court

Sd/-

Registrar General

Patna High Court, Patna

Date: 17-2-2016"

4. Learned counsel for the petitioners referred to the

judgment of the Hon'ble Supreme Court, reported as *Deepak Aggarwal Vs. Keshav Kaushik and others (2013) 5 SCC 277*, to contend that the petitioners are eligible to appear for appointment to the post of District Judge Entry Level (Direct from Bar).

5. A perusal of the aforesaid judgment shows that it dealt with the Law Officer, Public Prosecutor or Government Pleader, laying down the effect that Public Prosecutor or Government Pleader continue to be Advocate. In the said case, the Court held that the expression "Advocate" or "Pleader" in Article 233(2) of the Constitution of India has been used for a member of the Bar, who conducts cases in Court or in any other Court and/or pleads in Court on behalf of his client. It was found that the appellants, on their appointment as Assistant District Attorney/Public Prosecutor/Deputy Advocate General, do not cease to be Advocates and since each one of them continue to be Advocate, they cannot be considered to be in service of the Union or the State within the meaning of Article 233(2) of the Constitution of India and, therefore, entitled to be considered for recruitment as District Judge Entry Level (Direct from Bar).

6. Contrary to the above, the petitioners herein are in full time employment of either the National Seeds Corporation Limited or in the Canara Bank. Therefore, they are not, and cannot be called, practicing Advocates. Thus, they are not eligible for consideration for

appointment as District Judge Entry Level (Direct from Bar).

7. Consequently, both the writ applications are dismissed.

(Hemant Gupta, J)

I agree
I. A. Ansari, ACJ

(I. A. Ansari, ACJ)

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