

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8971 of 2016

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1. Nitin Kumar, son of Shri Anant Prasad, resident of Village- Hasanpur Surat,
P.O.- Patori P.S.- Patori, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Health Department, Bihar, Patna.
2. Bihar Staff Selection Commission, Patna through its Secretary.
3. Chairman, Bihar Staff Selection Commission, Patna.
4. Secretary, Bihar Staff Selection Commission, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava
For the Respondent State: Mr. SC21- KUMAR MANISH
For the Staff Selection : Mr. K. K. Upadhyay
Mr. C. B. Das

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 28 -07-2016

Petitioner was an aspirant for the post of Operation Theatre Assistant.

According to him, he made an application online when advertisement was issued for filling up such post. Bihar Staff Selection Commission was assigned the responsibility to conduct the examination. The advertisement is Annexure-3 to the writ application.

2. It is the case of the petitioner that despite the petitioner having successfully uploaded his details online, he could not download an admit card. He approached the Staff Selection Commission to enable him to participate in the counseling scheduled between 15/05/2016 to 22/05/2016.

3. The refusal of the Staff Selection Commission to entertain such a request on behalf of the petitioner vide order dated 12/05/2016 (Annexure-9 to the writ application) has brought the petitioner before this Court. Reading of

Annexure-9 would indicate that since the application form of the petitioner was not complete, therefore, the Commission rejected the prayer for issuance of admit card to facilitate his counseling.

4. When the matter was taken up on 20th May, 2016, the Court keeping in mind that 22nd of May, 2016 was the last date of counseling and since counsel for Staff Selection Commission was not in a position to respond effectively on the issue, the Court as an interim measure permitted the petitioner to participate in the counseling. However, in its order dated 20th May, 2016, the Court also recorded that participation in the counseling, however, will not create a right in favour of the petitioner in any manner.

5. A detailed counter affidavit has been filed on behalf of the Staff Selection Commission. The stand of the Commission is that the petitioner did not complete the process of online registration of his application and that is the reason why the registration process was not completed and transaction failed. This made the petitioner ineligible and so failed to download the admit card.

6. Learned counsel representing the petitioner tried to convince the Court that the process of registration was complete. Petitioner had successfully provided the details about himself and if the data base of the Staff Selection Commission did not contain the inputs provided by the petitioner, how did they succeed in taking a printout to provisionally issue an admit card for participation of the petitioner in the counseling, in terms of the interim order of this Court.

7. The Court initially was taken in by such attractive argument and, therefore, it directed the technical man of the Staff Selection Commission to appear before the Court and explain the process. Assistance was rendered. The Court was handed over a copy of the so-called application form submitted by the petitioner online, along with procedure in detail for submission of such



applications. The important instructions required to be followed by a candidate, along with a copy of online application of yet another candidate who had successfully registered was also brought on record. These materials have also been shared with the counsel for the petitioner. The Court was explained that the petitioner for some reason or the other had not completed some aspect of online application because his application form would show that an instruction had appeared at the top of the form saying “**Review your form**”. In comparison a duly registered online application form generates a bar code, form number as well as payment details. The end result of a successful online registration generates a different registration form altogether vis-à-vis an incomplete form i.e. of the petitioner.

8. The Court is satisfied that either the petitioner is not the technology savvy or the person whose help he might have taken for registration online has not completed the online registration successfully. The application form produced by the Staff Selection Commission of the petitioner indicates that the petitioner was required to review his form on some aspect of the matter and since it was not successfully done, Staff Selection Commission rightly rejected his claim by virtue of the communication, contained in Annexure-9.

9. The Court has also been informed that it is not the petitioner alone but almost 400 candidates have been rejected on similar grounds. The petitioner cannot be made an exception by giving him any leeway or head start over others especially since there is failure on his part, whatever be the shortcoming in his online registration.

10. The Staff Selection Commission, therefore, cannot be faulted for the predicament of the petitioner. Since there was failure on the part of the petitioner to complete the process of online registration, the technology prevented

him from down-loading any admit card for counseling because he was treated as good as a non-candidate.

11. Writ application, therefore, is dismissed. Merely because petitioner was allowed to participate in the counseling as an interim measure due to the limited time available for counseling, it will not create any right in his favour.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

AFR/NAFR	NAFR
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