

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8659 of 2014

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1. Prashant Kumar Jha, Son of Sri Ram Chandra Jha, Resident of Village-
Nathpatti, P.S. Baluwa Bazar, District- Supaul

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Health, New Secretariat, Patna
2. The Secretary-cum-Executive Director, State Health Society, Bihar having its office at Pariwar Kalyan Bhawan, Sheikhpura, Patna
3. The District Magistrate cum Chairman, District Health Committee, Supaul
4. The Civil Surgeon-cum- Secretary, District Health Committee, Supaul
5. The Additional District Magistrate cum District Health Committee, Supaul
6. The District Malaria Office District Health Committee, Supaul
7. The District Programme Manager, District Health Superintendent, Supaul
8. Binay Kumar S/o Binod Kumar, District Physiotherapist, Sadar Hospital, Supaul

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs Nutan Sahay
For the Respondent/s : Mr. AC to GA 4
Mr K.K.Sinha
Mr Girijesh Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 19-05-2016

Petitioner wants quashing of the merit list dated 10.2.2014, which is Annexure- 5 to the writ application. As per the petitioner, the respondent authorities of the District Health Society have deliberately played mischief in calculating the percentage of marks of the petitioner viz- a- viz the selected candidates. The discrimination which has been caused to the petitioner is that respondent authorities have deliberately calculated percentage of marks of only one year and ignored the marks which he had obtained

in 3 ½ years studies done earlier.

When the matter was taken up initially the submission of the counsel did sound convincing with regard to conduct of the respondents. However, now more light has been shed both on behalf of the Health Society as well as the Magadh University.

The answer lies in difference between the Degree obtained by the selected candidates and the 'so-called Degree', which has been obtained by the petitioner. A closer look would show that the petitioner has basically obtained a Diploma in the course in question. He did a one year Abridged course from Magadh University, which has been declared equivalent to 4 ½ years of Degree course. In other words, the rest of the selected candidates are Degree holders through and through. However, the present petitioner claims to be a Degree holder by virtue of the Abridged course. The other 3 ½ years was a Diploma, which he obtained and this Court has no hesitation in saying that some equivalence will not make the Diploma of the petitioner any superior to a Degree holder.

It is in this background that the marks for one year of Abridged course, which is said to be the Degree, has been calculated ignoring the Diploma and marks with regard to Degree of all the years has been calculated with regard to the selected candidates. In addition to that, there is a reason for doing so because the advertisement

contained in Annexure- 4, especially clause 6, categorically states that a Diploma holder will be given an opening only in absence of a Degree holder. Since Degree holders were available for selection and they came to be selected, the petitioner’s claim for such appointment was rejected on the basis of merit position and not for any other mischief.

Counsel for the petitioner thereafter tries to argue a case of discrimination by indicating to the Court that in some other districts people with similar kind of Diploma and one year Abridged course have been given weightage for even the period of Diploma. If the petitioner was not an applicant in those districts and was not within the zone of consideration then the selection so made for other districts will become vulnerable only when a challenge is thrown by candidates, who have been affected by such non-selection. This Court will not convert the writ application of the petitioner into a PIL.

Writ application is dismissed.

(Ajay Kumar Tripathi, J)

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