

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.918 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 18532 of 2013

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Shashi, son of Sri Santosh Kanodia, Resident of 103, Om Raj Apartment, Jamal Road, PS Gandhi Maidai, Patna - 800001

.... Appellant

Versus

1. The Bihar State Power (Holding) Company Ltd., Patna, having its Registered Office at Vidyut Bhawan, Bailey Road, Patna, successor of the erstwhile Bihar State Electricity Board, through its Chairman-cum-Managing Director
2. Chairman-cum-Managing Director, Bihar State Power (Holding) Company Ltd., Patna, having its Registered Office at Vidyut Bhawan, Bailey Road, Patna, successor of the erstwhile Bihar State Electricity Board
3. Secretary, Bihar State Power (Holding) Company Ltd., Patna, having its Registered Office at Vidyut Bhawan, Bailey Road, Patna, successor of the erstwhile Bihar State Electricity Board
4. Joint Secretary, Bihar State Power (Holding) Company Ltd., Patna, having its Registered Office at Vidyut Bhawan, Bailey Road, Patna, successor of the erstwhile Bihar State Electricity Board,.
5. .General Manager (H.R.) Bihar State Power (Holding) Company Ltd., Patna, having its Registered Office at Vidyut Bhawan, Bailey Road, Patna, successor of the erstwhile Bihar State Electricity Board,
6. Deputy General Manager (H.R.) Bihar State Power (Holding) Company Ltd., Patna, having its Registered Office at Vidyut Bhawan, Bailey Road, Patna, successor of the erstwhile Bihar State Electricity Board --- Respondents / Respondents
7. Priyanka Bharti, Daughter of Sri Rajendra Prasad, Resident of 1st Floor, Flat No. 7, Lilly Bhawan, Saidpur Nahar Road, PS Kadamkuan, Patna -800004
..... Petitioner No. 2 /Respondents

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Appearance :

For the Appellant/s : Mr. Siya Ram Shahi and Mr. Sanjeev Kumar

For the Respondent/s : Mr. Anand Kumar Ojha, Addl. Standing Counsel
Mr. Ashok Kumar Varma

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 25-04-2016

The order dated 24th April, 2014 passed by the learned



Single Judge is the subject matter of challenge in the present Letters Patent Appeal. By the order impugned in this appeal, the learned Single Judge has refused to issue direction for issuance of appointment letter to the appellant on the post of Assistant Electrical Engineer (General Cadre)- Electrical/ Assistant Executive Engineer (GTO Cadre)-Electrical, on the basis of selection made pursuant to Advertisement No. 7/2011. The learned Single Judge found that after publication of Advertisement No.7/2011, the Bihar State Electricity Board which has invited applications, was re-organized into five statutory Companies including Bihar State Power (Holding) Company Limited (hereinafter referred to as the 'Holding Company').

It has been pointed out in the counter affidavit filed by the respondents that after re-organization of the Board, decision was taken by the Holding Company to stop the process of employment under the Employment Notice No.7/2011 issued earlier as the respondents have brought on record the new recruitment policy. Thus, it was stated that in view of the changed circumstances, the employer has rights to increase or reduce the number of vacancies and also decide to fill up all the posts or not to fill them up. It is further stated that new advertisement has been issued on revised terms and conditions with new eligibility criteria. Therefore, the decision of the Holding Company cannot be said to be arbitrary.



Learned counsel for the appellant relies upon a judgment of the Supreme Court reported in **(1991) 3 SCC 47 (Shankarshan Dash vs. Union of India)**, to contend that even if the adequate numbers of candidates are found fit, the successful candidates do not acquire any indefeasible right for appointment, but the State does not have a licence to act in an arbitrary manner. The decision not to fill up the vacancies has to be taken *bona fide* for appropriate reason. It is thus contended that by taking the decision which the respondents had taken earlier for verification of the certificates, the respondents are estopped to issue fresh advertisement.

We do not find any merit in the arguments raised. The Advertisement was issued in the year 2011 by the erstwhile Bihar State Electricity Board. After the selection was completed, the Board has been re-organized into five Companies. At one stage, the successor Company considered appropriate to continue with the selection process and asked for verification of certificates of the candidates. But subsequently changed the terms and conditions of appointment and the eligibility criteria. Therefore issued fresh Advertisement. Thus, there exist sufficient reasons for re-advertising of the posts rather than to continue with the posts advertised earlier by Bihar State Electricity Board.

We do not find any error in the order passed by the learned

Single Judge which may warrant any interference by this Court in the present Letters Patent Appeal.

The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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