

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1092 of 2016
In
Civil Writ Jurisdiction Case No.13827 of 2015**

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Abhijeet Kumar, Son of Sri Surendra Singh, resident of Village - Gandhi Nagar,
Behind S.D.O. Colony, Masaurhi, P.S. Masaurhi, Distt. – Patna.

.... Appellant/s

Versus

1. The Union of India, through its Secretary, Deptt. of H.R.D., Govt. of India,
New Delhi.
2. The Director, National Institute of Technology, Patna.
3. The Chairman, Scrutiny Committee, National Institute of Technology, Patna.
4. The Registrar, National Institute of Technology, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Santosh Kumar Singh, Advocate

For the Respondent/s : Mr. Y. V. Giri, Senior Advocate
Mr. S. K. Giri, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-05-2017

Re.: Interlocutory Application No.4770 of 2016

The delay in filing of this Appeal is condoned.

Interlocutory Application stands allowed.

Re. : Letters Patent Appeal No.1092 of 2016

Seeking exception to an order passed by the learned Writ
Court on 01.03.2016 in Civil Writ Jurisdiction Case No.13827 of
2015, this appeal has been filed under Clause 10 of the Letters Patent.

In the matter of appointment of Technical Assistant in the
National Institute of Technology, Patna, an advertisement was issued



on 03.07.2014 and challenging the selection process on account of the fact that there has been change in the process of selection in the midst of the selection process, the writ petition was filed and an allegation is made before us that even though the petitioner passed the online test and the trade test, but only based on the interview, his claim has been rejected and as his marks in the trade test and qualifying online test have not been added, he had challenged the process of selection on the ground that rules of selection have been changed in the midst of the process.

Learned Writ Court examined the advertisement and the rules and found that as per the original selection criteria notified, every candidate was to appear in the online test and trade test and only such candidates, who qualified in the trade test, were eligible to appear in the interview. There was nothing in the advertisement to show that the marks obtained in the trade test or the Online test, as indicated in the instructions or advertisement, was to be counted for calculating the merit. It is seen that for qualifying to appear in the interview, every candidate was to clear the Online Test and Trade Test and as this was only a short-listing process, the learned Writ Court after evaluating the entire process of selection has recorded the following finding:-

“ 8. If these two quotations are read in junction with what has been stated in Annexure-5 then learned counsel for the NIT seems to be correct that the clarificatory notification, contained in



Annexure-5, only indicates in simple words what was going to be the process of selection.

9. Every candidate was required to participate in online test. If he succeeded in getting minimum 50% marks in the online test, he would be permitted to sit in the trade test. If a candidate managed to get 50% marks in the trade test, then only he will qualify for participation in interview and interview will be the final basis for selection. Online test and trade test was part of requirement to qualify.”

The said finding clearly goes to show that there is no change in the process of recruitment as contended. The trade test and online test were only a process akin to short-listing or a preliminary selection process and as the final selection is based on the interview, that being the position, we find no reason to make any indulgence into the matter. No other ground was canvassed before us.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	

