

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1589 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 2021 of 2016**

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Niraj Kumar, son of Tripurari Prasad Sinha, resident of Village – Goh, P.S. Goh, District Aurangabad at Present C/o Tripurari Prasad Sinha, District Statistical Office Bokaro Camp-2, Near DC Office Bokaro/ Jharkhand Pin 82700

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Science & Technology Department, Bihar, Patna
2. The Additional Secretary, Science & Technology, Department, Bihar Patna.
3. The Principal Secretary, Personnel and Administrative Reforms, Department Bihar, Patna
4. The Bihar Public Service Commission, through the Secretary, 15 Jawaharlal Nehru Marg, Patna
5. The Joint Secretary-cum-Examination Controller Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Patna.
6. The Examination Controller, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Patna

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Nand Kishore Prasad Sinha, Advocate Mr. Sanjeet Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, G.A. 7 Mr. Uday Shankar Pandey, A.C. to G.A. 7 Mrs. Priya Gupta, A.C. to G.A. 7
For the B.P.S.C.	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-05-2017

Seeking exception to an order dated 13.07.2016 passed by the learned Writ Court in C.W.J.C. No. 2021 of 2016 this appeal has been filed under Clause 10 of the Letters Patent.

2. In the matter of recruitment on the post of Assistant



Professor for the Bihar Polytechnic Engineering Colleges and the Bihar Engineering Education Service, appellant has challenged the weightage of 10 per cent marks granted by the department to work experience. It is the case of the appellant that even though initially 5 per cent weightage was to be granted but on recommendation of the Government it has been increased to 10 per cent and as this was not permissible, the writ petition was filed.

3. The Writ Court found that the appellant participated in the process of selection. The increase of percentage was done by the Bihar Public Service Commission by issuing an appropriate corrigendum well before the selection process began and the appellant having participated in the selection process can not make a complaint with regard to the selection process. That apart, the Writ Court found that the weightage has been granted by the Government as a one time exception for the case only even though by amendment in the recruitment rule and finding no error in the action undertaken, the petition has been dismissed.

4. We find no reason to make any indulgence into the matter. When the corrigendum was issued and appellant was well aware of the fact that 10 per cent weightage is being granted and knowing the same fully well, participated in the examination/selection process held in the year 2015 and thereafter



challenged the notification after the results were declared. This being not permissible under law, we see no reason to make any indulgence into the matter. It is a well settled principle of law that once having participating in the process of selection a candidate cannot turn around and make a complaint with regard to the process of selection. See **Madras Institute of Development Studies and another Vs. K. Sivasubramaniyan and others- (2016) 1 SCC 454, Barot Vijaykumar Balakrishna and others Vs. Modh Vinaykumar Dasrathlal and others- (2011) 7 SCC 308 and Rakhi Ray and others Vs. High Court of Delhi and others- (2010) 2 SCC 637.**

In view of the above, the Letters Patent Appeal is dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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