

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.747 of 2016

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Rajiv Kumar Singh son of Sri Sarvanand Singh Resident of Konhara Road behind
Railway Colony Quarter No. G/5 Andarkila, P.O. and P.S. Hajipur, District-
Vaishali

.... Petitioner

Versus

1. The State of Bihar through Secretary, Department of Rural Development,
Vishwasariya Bhawan, Patna.
2. The Chairman, Selection Committee cum District Magistrate, Vaishali at
Hajipur.
3. The Member, Selection Committee cum Deputy Development Commissioner,
Vaishali at Hajipur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar, Adv.

For the Respondent/s : Mr. Sanjay Kumar, AC to SC-15

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-06-2017

Heard Mr. Abhay Kumar, learned counsel for the petitioner
and Mr. Sanjay Kumar, AC to SC-15, for the State.

The petitioner prays for issuance of a writ in the nature of
mandamus commanding the respondents to appoint the petitioner on
the post of Panchayat Rojgar Sewak under 'MANREGA' Scheme on
contract basis on the basis of selection process initiated vide
advertisement present at Annexure 1.

It is not in dispute that the petitioner responded to the
advertisement at Annexure 1 and has also participated in the selection
process as well as in the counseling but his name did not figure in the
final select list, inter alia, on ground that he was over age. Such is the



information passed to the petitioner on Mobile as admitted by him in paragraph 6 of the writ petition. The petitioner represented before the District Magistrate, Vaishali, who is the Chairman of the Selection Committee in reference to the Corrigendum present at Annexure 2, whereby maximum age was enhanced to 37 years and which brought the petitioner within the consideration zone having attained only 35 years and 10 months on the date of consideration, as admitted by the respondents at Annexure 'A' to the counter affidavit which puts the age of the petitioner as 35 years 10 months on the date of consideration. The petitioner thus requested the District Magistrate, Vaishali to provide him with the appointment as he was wrongly denied the same in view of Corrigendum present at Annexure 2. No reply was received by him and thus he is before this Court.

A counter affidavit is filed on behalf of the respondents and in paragraph 8 of the counter affidavit the respondents fairly admit that due to clerical mistake the name of the petitioner was not entered in the final select list but thereafter the respondents have proceeded to justify the denial on grounds that no objection was raised by the petitioner.

In my opinion, the stand of the respondents at paragraphs 8 to 10 of the counter affidavit is incorrect in view of the objection raised by the petitioner and present at Annexure 5 addressed to the



District Magistrate, Vaishali as the Chairman of the Selection Committee. Even otherwise, in my opinion, once the respondents do admit their mistake that the name of the petitioner did not figure in the select list by virtue of their own mistake, they cannot take advantage of their own folly. The claim of the petitioner cannot be prejudiced where fault entirely lay on the respondents and it was entirely within the domain of the respondents to correct the mistake by providing appointment to the petitioner.

Conformingly the petitioner has been denied appointment wholly illegally, arbitrarily and entirely due to fault of the respondents as also admitted by them at paragraph 8 of the counter affidavit.

In that view of the matter, the writ petition is allowed with the direction to the District Magistrate, Vaishali to consider the case of the petitioner for appointment under the Scheme and in terms of the advertisement present at Annexure 1 and pass appropriate order within a period of three months from the date of receipt/ production of a copy of this order.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.06.2017
Transmission Date	NA

