

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6715 of 2017

- =====
1. Ashu Kumar Jha s/o late Tara Nath Jha resident of Village - Khajuraha PS Sonbarsa Raj, District Saharsa.
 2. Ripunjay Kumar Sinha s/o Ganesh Dutta Prasad resident of village Naudiha, PS Khijersarai, District Gaya.
 3. Satish Kumar s/o Mr Surendra Prasad Singh resident of Ramkosha More, Laxmipur, PS Ayre Arrah, District Bhojpur, Bihar.
 4. Anulica Kumar D/o Mr Cyprus Kumar c/o Mr. Shashi Bhushan Marandi, resident of Chano Road, Hearunganj, PS - Sadar, District Hazaribagh, Jharkhand.
 5. Seema Patel D/o Mr Kanchhedi Lal Patel Flat No. 404, Artec Apartment, Ashiyana Digha Road, PS Rajiv Nagar, Patna.
 6. Partha Banerjee s/o Mr. Shankar Banerjee Indraprastha Colony, Madhusudan Sarai, Lane No. 1, Deshbandhu Road, Ward No. 21, PS Sadar, District Purulia, West Bengal.
 7. Manoj Kumar S/o Mr Sadhu Singh village Muzaffarpur, PS Kadirganj, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Bihar, Patna.
2. The Principal Secretary, Department of Home, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Additional Director General of Police, Crime Investigation Department, Bihar, Patna.
5. The Inspector General of Police, Crime Investigation Department, Bihar, Patna.
6. The Director, Forensic Laboratory, Bihar, Patna.
7. The Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Patna through its Secretary.
8. The Chairman, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg.
9. The Secretary, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Patna.
10. The Special Secretary cum Examination Controller, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar Jha, Sr. Adv.
For the Respondent/s : Mr. Md. N.H. Khan-SC1
For the B.P.S.C. : Mr. Lalit Kishore, Sr. Adv.
Mr. Sanjay Kumar Pandey, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-05-2017

Heard Mr. Anil Kumar Jha, learned counsel for the petitioners,



learned counsel for the State and Mr. Lalit Kishore, learned Senior counsel appearing for the Commission along with Mr. Sanjay Pandey,

The petitioners are aggrieved by the notice dated 19.4.2017 in so far as it disqualifies the petitioners on the marks awarded against academic qualification. According to Mr. Jha learned Senior counsel appearing for the petitioners in reference to the advertisement, there is no such mention in the advertisement, a copy of which is placed on record at Annexure-P/4 that the respondent-Commission would be following the Bihar Public Service Commission Rules of Procedure, 1996 (hereinafter referred to as 'the Rules'), a copy of which has been placed on record at Annexure-D to the counter affidavit.

In short, the submission is that the procedure adopted by the respondent-Commission by following Rule 4(3)(a) of 'the rules' to award marks on educational qualification, is contrary to the advertisement for it does not take into consideration the experience gained by the candidates during the service.

The argument of Mr. Jha has been contested by Mr. Kishore to submit that even though the experience is taken into consideration as per the advertisement but that is only for testing the eligibility of the applicant. He submits that once the applications are received that a selection list was prepared in terms of Rule 4(3)(b) of 'the Rules' and the number of candidates called for interview is 5 times the number of



vacancies. He submits that amongst the candidates who were called for interview by following such rules, in so far as the category of the petitioner is concerned, the last of the candidate had obtained 70.50 marks and which is mentioned at paragraph 3 of the impugned notice. It is argued that since the marks secured by the petitioners as against the education qualification fall much below the marks mentioned in paragraph 3 as explained at paragraph 12 of the counter affidavit, they have not been called for interview.

Having heard learned counsel for the parties and though according to Mr. Jha, the procedure so followed by the Commission is not supported by the Advertisement but in my opinion, the argument advanced is thoroughly misconceived for in view of the discretion vested in the Commission under Clause 5 of the advertisement present at Annexure-P/4 read alongside ‘the Rules’ which binds the Commission to determine the number of candidates who are to be called for interview, the decision taken meets the stipulations as well as rationale and does not require interference.

The writ petition is dismissed.

Bibhash/-

(Jyoti Saran, J)

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	31.05.2017
Transmission Date	NA

