

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1763 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 3463 of 2015
Along with
Interlocutory Application No. 7914 of 2015**

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1. Dr. Satyendra Kumar Singh , Son of Sudeshwar Singh, Resident of Village Karkat Bigha, P.O. Ranipur, Via Paliganj, District Patna.
 2. Dr. Dinesh Kumar Tiwar,i Son of Vijendra Nath Tiwari, Resident of Sarvodya Printing Press, Rajendra Path, Near Jahaji Kothi, P.O & P.S Kadamkuan, Patna 3.
 3. Dr. Keshav Prasad Singh, Son of Kishori Sharan Singh, Resident of Village Bhaluahi, P.O & P.S. Sheohar, District Sheohar.

.... Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Director, Deshi Chikitsa, Health Department, Bihar, Patna.
3. The Special Secretary of Government of Bihar, Health Department, Bihar, Patna.
4. The Secretary, Central Council of Indian Medicine 61-65 Institutional Area Janakpuri, New Delhi 110058.
5. The Executive Director, State Health Society, Pariwar Kalyan Bhawan, Sheikhpura, Patna 14, Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mrityunjay Kumar, Advocate
For the State : Mr. R.S.Singh, AC to AAG-7

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 09-02-2017

Interlocutory Application No. 7914 of 2015

The application is for condonation of delay of 16 days
in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find



that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

Letters Patent Appeal No. 1763 of 2015

The challenge in the present Letters Patent Appeal is to an order dated 13th of May, 2015 whereby the writ application filed by the appellants was dismissed.

The appellants are Ayurvedic Doctors. Their grievance is that for lack of advertisement to fill up the vacant posts of Ayurvedic Doctors, the appellants have crossed the maximum age limit of 45 years; therefore, there should be further relaxation of age.

The learned Single Bench has rightly found that maximum age fixed by the Government for general category is only 37 years with respect to all posts but in respect of Ayurvedic Doctors, the age was relaxed to 45 years but even after such relaxation the appellants are not eligible. Thus, there cannot be any direction by this Court to relax the age further to make the appellants eligible for consideration.

The other argument is that there are vacant posts which could not be filled up on account of non-fulfillment of candidates from the reserved category and therefore, the seats



meant for reserved category should be filled up from amongst the candidates such as the appellants.

We do not find any merit in the said arguments. Firstly, the appellants do not fulfill the eligibility criteria. Even if they were fulfilling the eligibility criteria, the unfilled reserved category seats cannot be ordered to be filled up by general category candidates in exercise of power of judicial review. This is the administrative action required to be taken by the State Government as to whether the unfilled seats should be filled up from amongst the general category candidates.

We do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra-Court appeal.

The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, ACJ.)

S.Pandey/-

(Sudhir Singh, J.)

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	11.02.2017
Transmission Date	

