

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.951 of 2015
IN
Civil Writ Jurisdiction Case No. 23924 of 2013**

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Rajesh Kumar Ranjan, Son of Late Ladli Sharan, resident of Ram Nagar Chhawani,
P.S.- Bhagwan Bazar, District- Chapra at present posted as In- Charge Headmaster,
S.M.T. High School, At + Post + P.S.- Vaishali.

.... Appellant/s

Versus

1. The Bihar Public Service Commission through its Secretary, Bailey Road, Patna.
2. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
3. The Officer-on-Special Duty, Bihar Public Service Commission, Bailey Road, Patna.
4. The Examination Controller, Bihar Public Service Commission, Bailey Road, Patna.
5. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Gyan Prakash, Adv.
For the BPSC : Mr. Sanjay Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 01-08-2017

Heard counsel for the appellant and counsel for the
B.P.S.C.

The issue was whether the appellant was eligible to be
permitted to participate in the conduct of examination held by the
B.P.S.C. in terms of the advertisement contained in Annexure-6 to the
writ application.

The learned Single Judge went into the terms and
conditions of the advertisement and the eligibility which a candidate



was required to hold on the cutoff date which was said to be 06.06.2007.

After considering the entirety of the matter, the learned Single Judge has clearly held that on the cutoff date the appellant was not working in the pay-scale of Rs.6500-10500 and therefore was ineligible to apply and rejection of his candidature was in order.

Thereafter, it is urged that one Rakesh Kumar Sinha in the similar circumstance had been allowed and, therefore, there should be equality in the opportunity. This is what the learned Single Judge has had to say in Paragraphs 32 and 33 of the impugned order which are reproduced hereunder:

*“32. In the considered view of this Court, aforesaid Rakesh Kumar Sinha, therefore, may also become ineligible like the petitioner but, that will not mean that Article 14 of the Constitution of India will have to be enforced in a negative manner. Reference in this connection may usefully be made to the judgment of the Apex Court in the case of **State of Bihar Vs Upendra Narayan Singh** reported in (2009) 5 SCC 65 wherein it was held as follows:*

*"67. By now it is well settled that the guarantee of equality before law enshrined in Article 14 is a positive concept and it cannot be enforced by a citizen or court in a negative manner. If an illegality or irregularity has been committed in favour of any individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing wrong order - **Chandigarh Admn. Vs. Jagjit Singh**, {(1995) 1SCC 745}; **Jaipur Development Authority v. Daulat Mal Jain**, {(1997) 1 SCC 35}; **Union of India v. J.V.Subhaiah**, {(1996) 2SCC 258}; **Gursharan Singh v. NDMC**, {(1996) 2 SCC 459}; **State of Haryana v. Ram Kumar Mann**, {(1997) 3 SCC 321}; **Faridabad Central Government. Scan Centre v. D.G.Health Services**, {(1997) 7 SCC 752}; **Style (Dress Land) v. UT, Chandigarh**,*



{(1999) 7 SCC 89}; State of Bihar v. Kameshwar Prasad Singh, {(2000) 9 SCC 94}; Union of India v. International Trading Co., {(2003) 5 SCC 437} and Directorate of Film Festivals v. GAurav Ashwin Jain {(2007) 4 SCC 737}.

33. Thus, the long and short of this case is the issue of cut-off date as with regard to eligibility of the petitioner and since the cut-off date of eligibility involved has to be judged in terms of the advertisement and the advertisement had required the fulfillment of the qualification and experience on the last date of the filing of the application, it has to be essentially held that the petitioner on account of his own admission of being in the pay-scale of Rs. 5500-9000 on the date of filing of his application was ineligible for the post of Headmaster in terms of the advertisement and its Clause-2(Gh) requiring a teacher to be working in a senior pay-scale of teacher with pay-scale 6500-10500.”

The reasoning given by the learned Single Judge in dismissing the writ application are based on several pronouncements of law by the Hon’ble Apex Court and the same cannot be said to be erroneous in any manner.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
CAV DATE	
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