

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1714 of 2016
IN
Civil Writ Jurisdiction Case No. 18837 of 2015**

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Aditya Kumar, Son of Dr. Devilal Yadav, resident of At + P.O. - Mathiya, Jamuhar,
P.S. - Lauriya, District - West Champaran.

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
3. Director, JEEVIKA District Project Co-ordination Unit. 5th Floor, BISCOMAUN Bhawan, Gandhi Maidan, Patna.
4. Chief Executive Officer, Jeevika, Bihar Rural Livelihoods Promotion Society, 5th Floor, BISCOMAUN Bhawan, Gandhi Maidan, Patna - 800001.

.... Respondent/s

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Appearance :

For the Appellant/s : Kumari Ranjana Bharti, Advocate
For the Respondent/s : Mr. Abhinav Srivastava, Advocate
Mr. Anjani Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-03-2017

Heard learned counsel for the parties.

2. Seeking exception to an order dated 1.8.2016 passed by the learned Writ Court in C.W.J.C. No.18837 of 2015, this appeal has been filed under Clause 10 of the Letters Patent.

3. Petitioner was a candidate who had applied for appointment with the respondent Society. The petitioner was a candidate belonging to the O.B.C. category, but in the On-line application form submitted, petitioner indicated himself to be a candidate belonging to the E.B.C. category. Finding that the



petitioner has committed an error in indicating his category and further finding that the Window was open for twenty eight days i.e. between 18.3.2014 and 15.4.2014, and the petitioner did not make any correction during this period, his candidature was rejected. However, as the petitioner was already working in some other establishment and, as his candidature was being actively considered in spite of the aforesaid error, the petitioner resigned from his earlier employment and when his candidature was cancelled and he was not permitted to join in spite of his merit, he filed the writ petition.

4. The writ court examined various aspects of the matter and came to the conclusion that the petitioner having committed an error, now he cannot be permitted to correct the error and seek appointment or joining as based on wrong declaration made in all other cases candidature of various other candidates has been rejected and, if correction is permitted in one case, the respondent employer will have to change the entire selection process and re-open the whole thing. Finding petitioner himself to be responsible for having made the error and not corrected it within the stipulated period, the learned Writ Court refused to interfere into the matter.

5. During the course of hearing today again, as was done before the writ court, serious efforts were made to point out that it was a *bone fide* error, minor in nature, and as the petitioner



due to the conduct of the employer was compelled to resign from earlier job, the respondents having permitted the petitioner to participate in the process of group discussion and various other selection processes could not have denied joining to him, relief was sought for.

6. On the contrary, learned counsel for the respondent employer took us to the counter affidavit filed and pointed out that even though in the application form strict instructions were issued to each and every candidate by noticing them that in case of any error committed, their candidature would be rejected, the petitioner committed the error in question and that his candidature was sympathetically considered, but on administrative consideration it was rejected. Now, it is stated, no indulgence can be made in the matter. Learned counsel for the respondent argued that if the petitioner's case is accepted, then there are many similarly situated employees who had committed identical error and all their cases will have to be re-opened. This would derail the entire selection process and, therefore, at this stage, the order passed by the learned Writ Court needs no interference.

7. We have considered the issue in question in detail and we find that the petitioner was a candidate belonging to the O.B.C. category and he claimed himself to be an E.B.C. category candidate. The learned Writ Court has bestowed its anxious



consideration to various aspects of the matter and has found that the petitioner has committed error, did not correct the mistake within the time stipulated and, therefore, taking note of various aspects of the matter, refused to entertain into the matter.

8. The learned Writ Court having exercised its discretion in reasonable manner in accordance with law, we find no reason to interfere into the matter only on the basis of hardship to the petitioner or on sympathetic consideration as any indulgence made at this stage would have far reaching repercussion on the entire selection process, including the right of many other identically situated candidates and, therefore, once it is found that the petitioner himself is responsible for the error committed, no indulgence into the matter can be made.

9. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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