

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1407 of 2018

=====

Ashok Kumar Advocate, Son of Shyam Nandan Ray, resident of Village - Rampur
Shyamchand, P.S. - Raghobpur, District - Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Union of India through the Secretary, Human Resources Department, Govt. of India, New Delhi.
3. The Principal Secretary, Human Resources Department, Govt. of Bihar, Patna.
4. The Chairman, B.P.S.C. Bailey Road, Patna.
5. The Joint Secretary Cum Examination Controller B.P.S.C. Bailey Road, Patna.
6. The Chairman, U.G.C. Bahadur Shah Jafar Marg, New Delhi.
7. The Secretary, UGC Bahadurshah Jafar Marg, New Delhi.
8. The Director, C.B.I. New Delhi.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Dhananjay Mishra

For the Respondent/s : Mr. Lalit Kishore, Advocate General

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 06-03-2018

Invoking the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution the petitioner, a practicing Advocate, has filed this writ petition in public interest and seeks a mandamus for directing an enquiry by the Central Bureau of Investigation (CBI, in short) after registering an F.I.R. into various irregularities said to have been committed by the Bihar Public Service Commission, Patna, in filling up the vacancies of Assistant Professor in pursuance to Advertisement No. 44 of 2014 and 84 of 2014.



It is alleged that reservation roster has not been followed, merit list has not been prepared properly, candidates with less marks have been called to the interview, candidates have been selected who have not even filled up the form and pointing out various allegations based on newspaper reports and unconfirmed reports received by the petitioner this writ petition has been filed.

Shri Lalit Kishore, learned Advocate General appeared on report in advance and refused the contentions. That apart, he points out that process of selection has been challenged by various candidates and writ petitions are pending before this Court with regard to the process of selection at the instance of the aggrieved persons. He further points out that in view of the judgment of the Supreme Court in the case of *Bholanath Mukherjee vs. Ramkrishna Mission Vivekanand Centenary College [(2011) 5 SCC 464]* and the judgment of the Delhi High Court in the case of *Forum of SC and ST Parliamentarians vs. ONGC (WPC No. 1698 of 2017)* decided on 27.02.2017, a public interest litigation with regard to recruitment matter which is a service dispute is not permissible.

He further argues that based on vague and unspecified allegations made in the writ petition no enquiry by the CBI can be ordered.

Even though the learned counsel for the petitioner by



referring to certain facts stated in Annexure-1 which is a note prepared and filed without any signature or authentication tried to indicate that various irregularities have been committed in the matter, we are of the considered view that in the peculiar facts and circumstances of this case and based on the manner in which vague allegations are made and enquiry by the CBI cannot be ordered.

The Hon'ble Supreme Court in the case of *The State of West Bengal vs. Committee for Protection of Democratic Respondents Rights [(2010) 3 SCC 571]* and thereafter in the case of *Puja Pal vs. Union of India [(2016) 4 SCC 160]* has laid down the parameters and guidelines based on which investigation can be ordered by an independent agency like CBI. If we analyze the facts of the case and the allegations made therein in the backdrop of the law laid down by the Supreme Court in the case of *The State of West Bengal vs. Committee for Protection of Democratic Respondents Rights* (supra) and *Puja Pal* (supra) we are of the considered view that no case is made out for enquiry by the agency like CBI. That apart, as informed by the learned Advocate General to us that the question of appointment is already sub-judice at the instance of the aggrieved persons and candidates before various Benches of this Court and when a Public Interest Litigation with regard to service dispute as laid down by the Supreme Court in the case of *Bholanath*



Mukherjee (supra) is not maintainable, we are not inclined to interfere into the matter.

The writ petition stands dismissed.

However, the aggrieved persons who are candidates and had participated in the selection process shall have the liberty to ventilate their grievance in accordance with law and dismissal of this P.I.L. shall not come in their way in doing so.

The petition stands dismissed with the aforesaid liberty.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mr.l./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.03.2018
Transmission Date	

