

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2707 of 2016

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Ashraf Badar son of M. Badruddin resident of Mohalla - Lodipur, Police Station - Lodipur, Town & District - Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna through its Secretary.
3. The Chairman, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna.
4. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajesh Mohan, Advocate
Mr. Md. Walliur Rahman, Advocate
For the BPSC : Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date: 03-01-2018

Heard Mr. Rajesh Mohan, learned counsel for the petitioner and Mr. Sanjay Pandey, learned counsel appearing for the Bihar Public Service Commission. There is no representation on behalf of the State.

The petitioner is aggrieved by the corrigendum issued by the Bihar Public Service Commission, impugned at Annexure-7 and whereby the petitioner's successful candidature for appointment on the post of Medical Officer, basic grade has been cancelled inter alia on the failure of the petitioner to submit the non-creamy layer



certificate in conformity of the requirements present at paragraph-9(ii) of the advertisement, a copy of which is placed at Annexure-3 to the writ petition and which inter alia required the candidates coming from the backward category and extremely backward to obtain a certificate of belonging to non-creamy layer from the Circle Officer of the area for obtaining the benefit of reservation.

The petitioner though belongs to be extremely backward class as confirmed from the caste certificate, present at Annexure-2 but the advertisement so published in 2014 by the Bihar Public Service Commission at Annexure-3 requires a further certification to be submitted by the candidates coming from the backward class/extremely backward class and they had to produce a non-creamy layer certificate from the Circle Officer. It is not in dispute that neither the certificate was produced by the petitioner along with his application form nor he took any step to procure the same for its production at the time of interview as per the directions contained in the Interview Call programme present at Annexure-4 which at paragraph-6 again reminds the candidates of this obligation. Annexure-4/A of the writ petition is the Interview Call letter and fixes 22.05.2015 as the date of interview on which date the petitioner was required to produce all his testimonial including the non-creamy layer certificate. It is undisputed rather admitted that although the petitioner



had produced other certificates but the non-creamy certificate was not produced by him because a copy of the same was obtained by him much thereafter on 30.06.2015 as manifest from Annexure-5.

It is in this view of the matter that although the petitioner's name figured in the list of successful candidate, a copy of which is at Annexure-6 at sl.no.205 but on the error being detected that the result has been cancelled through the corrigendum in question at Annexure-7 where the name of the petitioner appears at sl.no.6.

Though Mr. Rajesh Mohan, learned counsel for the petitioner submit that the respondents were satisfied by the candidature of the petitioner and hence published the result at Annexure-6 but even while making such submission, Mr. Mohan cannot dispute that the petitioner was not in a position to produce the non-creamy certificate either at the time of filing of the application or at the time of interview.

In the circumstances discussed and where the advertisement at Annexure-3 at Clause-9(ii) very clearly casts obligations on the candidates coming from the reserved category to produce a non-creamy layer certificate, the petitioner should have taken prompt steps for procuring the same but he failed and got a copy thereof only after the interview date. The legal position is well settled and a candidate has to fulfill the criteria on the date of filing of the application. Since



undisputedly the petitioner was not in possession of the non-creamy certificate which was a mandatory condition for the candidates coming from the reserved category his failure to do so shifted his candidature from reserved category to general category and since he failed to secure the marks for selection under the general category, his result has been cancelled.

For the reasons discussed, the writ petition is dismissed.

(Jyoti Saran, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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