

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2044 of 2016

In

Civil Writ Jurisdiction Case No.5811 of 2015

=====

Jitendra Ram, S/O Sri Laxman Ram, resident of Village- Agahara, Police Station- Amrath, District- Jamui.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, General Administration Department, Bihar, Patna.
3. The Principal Secretary, Finance Department, Bihar, Patna.
4. The Divisional Commissioner, Munger Division, Munger.
5. The Chairman, District Selection Committee cum District Magistrate, Jamui.
6. The Deputy Development Commissioner, Jamui.
7. The In-Charge Officer, Nazarat, Jamui.
8. The Senior Deputy Collector (Est.), Jamui.
9. The Sub-Divisional Magistrate, Jamui.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Vijay Kumar, Advocate

For the Respondent/s : Mr. Prabhat Kumar Verma- AAG-3

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-04-2018

Seeking exception to an order passed on 14.09.2016 by the Writ Court in C.W.J.C. No. 5811 of 2015 this appeal has been filed under Clause 10 of the Letters Patent.

Appellant was a candidate who had submitted his candidature for appointment to a Class-IV post in the disabled quota under E.B.C. category in pursuance to the advertisement issued by the department, contained in Annexure-1 dated 20th of October, 2012. His candidature was considered and ultimately it



has been rejected in the category of disabled person on the ground that the disablement certificate submitted by the petitioner, as is contained at page 13, is not in the required pro-forma as per the statutory regulation of the State Government. The learned Writ Court found that as the certificate is not in accordance to the requirement of the regulation, no indulgence can be made.

Before us it was argued that in the advertisement in question there was no stipulation as to how and in what manner the disability certificate is to be produced and if in the absence of such a specific stipulation the appellant submitted a certificate signed by the Medical Board of Jamui, in rejecting the candidature of the appellant an error has been committed.

Having heard learned counsel for the parties, we find that even though in the advertisement issued on 20th of October, 2012 it is only stated that the disablement certificate should be produced but we find from the counter affidavit of the State Government and the material available on record that a resolution has been passed by the State Government with regard to considering cases of disabled person for employment in Government service and in the resolution dated 05.01.2007 available in the record of the writ petition as Annexure-F, it is



indicated that based on the statutory provision namely Physically Disabled Persons Equal Opportunity in Public Employment Act, 1995 various statutory guidelines have been issued and in Annexure-1 to the said Resolution the pro-forma of the disablement certificate to be issued has been indicated. This pro-forma is in two pages and it mandates the Medical Board to conduct various examinations and submit the certificate in the prescribed pro-forma. Admittedly, in the case in hand, the certificate produced by the petitioner does not meet the requirement of the resolution (Annexure-F). The certificate is not in the pro-forma prescribed for seeking appointment in the appropriate category and, therefore, in refusing to interfere into the matter on such consideration, we are of the considered view that the learned Writ Court has not committed any error. Merely because in the advertisement there was no stipulation with regard to the certificate being in any particular form ignoring the requirement of the State Government's policy and statute, no relief could be granted to the petitioner. However, we caution the State Government that necessary directions be issued to all the authorities that whenever a certificate of the nature which has come to our notice is to be submitted in the advertisement, at least the candidate should be noticed to produce the certificate



in the form or the rule prescribed.

With the aforesaid observation, finding no further indulgence to be made into the matter, we dismiss this Letters Patent Appeal.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	19.04.2018
Transmission Date	

