

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.414 of 2015

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Randhir Kumar Singh Son of Late Ram Chandra Singh, Resident of Village-
Alampur, P.O.- GARh Sisai Via- Vidyapati Nagar, District- Samastipur

.... Petitioner

Versus

1. The State of Bihar
 2. The Principal Secretary, Department of Health, Government of Bihar
 3. The State Health Society, Bihar through its Secretary, Patna Bihar
 4. The Secretary, the State Health Society, Patna, Bihar
 5. The District Magistrate-cum-Chairman, District Health Society, Samastipur, Bihar
 6. The Civil Surgeon-cum-Secretary, District Health Society, Samastipur, Bihar
 7. Vandana Kumari, wife of Sanjay Kumar Singh Resident of Village- Bagdulhan, Vaishali presently working as Physiotherapist at District Sadar Hospital, Samastipur
- Respondents

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Appearance :

For the Petitioner	: Mr. Gyan Shankar, Advocate
For the State	: Mr. Madhav Prasad Yadav, GP 23
	Mr. Meera Singh, AC to GP 23
For respondent no.7	Mr. Sheonandan Pd.Singh, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 05-02-2018

Heard counsel for the petitioner, the State and private respondent no.7.

2. Petitioner has challenged the appointment of respondent no.7 as Physiotherapist in District Sadar Hospital, Samastipur. The petitioner was also an applicant for the said post under Advisement No. 13552 issued for selection in 2013-14. It is submitted by the counsel for the petitioner that the appointment of respondent no.7 has been made without possessing the requisite qualification from the duly recognized institute. He submits that the degree of



Physiotherapist obtained by her from Allahabad Agriculture Institute, Allahabad through distance learning does not have the approval of the University Grants Commission (UGC). Counsel for the petitioner refers to an order dated 28.09.2005, passed by the Delhi High Court in case of Indian Association of Physiotherapists Vs. Union of India and others. He submits that the degree of Physiotherapist has been obtained by respondent no.7 from Allahabad Agriculture Institute, Allahabad through distance learning. The institute is without approval of the competent statutory body and is therefore not recognized, as such, respondent no.7 cannot be allowed to continue to work as Physiotherapist in a Government Hospital.

3. Counsel for the petitioner has relied on the declaration of law made by the Apex court in Civil Appeal No. 17869-17870 of 2017 wherein the issue regarding technical education through distance learning and the post facto approval given to these institutions including the Allahabad Agricultural Institute has been settled. Apart from that one letter dated 8.4.2004 (Annexure 8), issued under the signature of the Under Secretary of the UGC has been placed on record to the effect that *“the UGC has already written a letter to the Vice Chancellor, Allahabad Agricultural*



Institute, Allahabad vide this office letter of even No. dated 5.3.2004 copy enclosed) to close down its all the centers being run without approval of UGC”.

4. Counter affidavit has been filed on behalf of respondent no.6, the Civil Surgeon-cum-Secretary, District Health Society, Samastipur. The Bihar State Health Society, which has issued the aforesaid advertisement (Annexure 2) wherein qualifications have been prescribed, has not filed any counter affidavit. Counter affidavit has also been filed by respondent no.7.

5. The counter affidavit filed on behalf of respondent no. 6 does not address the issue raised by the writ petitioner. The State Health Society, Bihar had come out with the advertisement for appointment on the post of Physiotherapists and occupational therapist in District Sadar Hospitals within the State of Bihar. In such a situation, they were obliged to ensure that duly qualified and experienced persons possessing degree from institutions recognized by the State Government are appointed against the respective posts so as to better serve the larger public interest. The issue whether degree issued by Allahabad Agricultural Institute, Allahabad from where respondent no.7 completed degree course in Physiotherapist is recognized by the State Authorities and who would better serve the



larger interest is an issue to be considered and decided by the authorities. The petitioner before filing the writ petition has not approached the State authorities of the department, except for filing a representation before the Civil Surgeon cum Secretary, District Health Society, Samastipur, who has made appointment.

6. Since the validity of the degree of respondent no.7 obtained from Allahabad Agricultural Institute, and whether the degree issued by the said institute has been recognized by the State Government/State Health Society is an issue to be looked into by the respondent authorities. It is agreed by the counsel for the petitioner as well as respondent no.7, that they would appear before respondent no.2 within fifteen days from today so as to enable determination of the issue whether the degree of the said institute is recognized by the State Government/State Health Society. The petitioner will be at liberty to make a detailed representation. After hearing the parties, respondent no.2 would be obliged to take a final decision as regards recognition of the degree of the said institute for the purpose of appointment as Physiotherapist in the State Government, expeditiously and preferably within a period of eight weeks from today in accordance with law.

7. Needless to say that continuance of respondent no.7 on



the post of Physiotherapist would abide by the decision taken by respondent no.2.

8. The writ petition stands disposed of in the aforesaid terms.

(Madhuresh Prasad, J)

Shashi.

NAFR	
CAV DATE	NA
Uploading Date	8.2.2018
Transmission Date	NA

