

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10019 of 2018

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1. I.T.I. Atithi Anudeshak Sangh, Bihar, Patna through its President namely Sikandar Prasad
 2. Vikash Saurabh, S/o Tribedi Ranjit Kumar, I.T.I. Sitamarhi, Dumra Court, Sitamarhi, Joint Secretary, I.T.I. Atithi Anudeshak Sangh, Bihar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Shram Sansadhan Bibhag, Government of Bihar, Patna.
2. The Director, Employment & Training, Government of Bihar, Patna.
3. The Directorate, Employment & Training, Shram Sansadhan Bibhag, Government of Bihar, Patna
4. The Joint Director, Employment & Training, Government of Bihar, Patna.
5. The Assistant Director, Training, Government of Bihar, Patna.
6. The Assistant Director, Technical Education, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajendra Pd. Singh, Sr. Adv.

Mr. Mukesh Kr. Singh, Adv.

For the Respondent/s : Mr. Ravi Ranjan, AC to SC22

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 13-08-2018

Heard learned counsel for the parties.

In the present case, the petitioners are challenging the order dated 11.5.2018 contained in memo no. 949, whereby and whereunder, the selection of part-time/guest Instructor has been canceled forthwith mentioning therein the Department has received various complaints with respect to selection of the petitioners from different pockets and, after taking into consideration the complaints received, the appointment of guest/contract Instructor has been canceled.

Learned counsel for the petitioner no.2 submits that he has applied for the post of Instructor on contract/guest basis against the Advertisement No. 5686/16-17 and, after following the due procedure,



the petitioner no.2 was selected, whereafter, another advertisement was also published in the year 2017 and the selection of Instructor has been made. He further submits that no complaint has been received with respect to the selection made against the Advertisement No. 5686/16-17 rather the complaints have been received by the Department with respect to selection made in the year 2017.

A voluminous counter affidavit has been filed attaching large number of documents and when this Court has asked from the counsel for the State as to whether the complaint that the State has received and conducted enquiry is related the present petitioner no.2, the State has fairly accepted that the complaint, which is a part of the counter affidavit, is related to selection of the year 2017 and there is no complaint and enquiry related to the selection made in the year 2016. In that view of the matter, if no complaint has been received by the Department with respect to the present petitioner no.2, this Court fails to understand in what circumstances, the Department has canceled the selection made in the year 2016 and, thus, the letter no. 949 dated 11.5.2018 is sweeping in nature, does not specifically deal with the issue, the nature of illegality committed in the matter of selection of the candidates nor it reflects that before passing this order, any enquiry, at any level or forum was conducted and, thereby, arriving to a finding of illegal selection.

In the present writ application, the issue is with respect to the advertisement published in the year 2016, having no relation with the



year 2017 advertisement and all the objections or complaints are of subsequent selection, cannot be extended or cannot be applied to the candidates who were selected in the year 2016.

Accordingly, this Court declares that the order dated 11.5.2018 contained in Memo No. 949 will not in any way cause any harm to the petitioner no.2 and will be treated to be for contract or guest employee.

As it is the Department who has illegally deprived the petitioner no.2 to impart his duty, he will be entitled for the 50% amount of the back-wages.

With the aforementioned observation, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2018
Transmission Date	NA

