

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6229 of 2016

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1. Shiv Kumar Singh, S/o Saryug Singh
 2. Santosh Kumar, S/o Upendra Singh (both are R/o Village - Sarmaspura, P.S. Lalganj, District - Vaishali)
 3. Upendra Rai, S/o Balbir Rai
 4. Sukesh Rai, S/o Yadunandan Rai
 5. Sanoj Rai, S/o Balbir Rai (Petitioner Nos. 3 to 5 are R/o village - Sathiauta, P.S. Bhagwanpur, District - Vaishali)
 6. Ramesh Kumar Srivastava @Ramesh Prasad Srivastava S/o Late Mahendra Prasad Srivastava
 7. Ravindra Kumar S/o Nand Lal Sah
 8. Nagendra Kumar S/o Nand Lal Sah (Petitioner Nos. 6 to 8 are R/o village - Raghunathpur Sahtha, P.S. Bhagwanpur, District - Vaishali)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Energy Department, Government of Bihar, Patna
2. Bihar State Electricity Board, Now Bihar State Power Holding Company Limited, Represented through General Manager (HR & Admin.) Vidyut Bhawan, Bailey Road, Patna.
3. Managing Director - Cum - Chief Engineer, Tirhut Electric Supply Area, Bhagwanpur Chowk, Muzaffarpur.
4. North Bihar State Power Distribution Company Ltd., represented through Managing Director, Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Barnwal, Adv.

For the NBPDCCL : Mr. Vinay Kirti Singh, Sr. Adv.

Mr. Vijay Kumar Verma, Adv.

Mr. Akhilesh Singh, Adv.

For the State : Mr. Kumar Priya Ranjan- SC23

Ms. Shally Kumari , A.C. to S.C.24

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date : 06-08-2018



Heard Mr. Subodh Kumar learned counsel for the petitioner, Mr. Vinay Kriti Singh learned Senior counsel for the respondent and Ms. Shally Kumari learned AC to SC-24 for the State.

Initially the writ petition was filed seeking a direction in the nature of mandamus commanding the respondent authorities of the Power Holding Company to complete the selection process initiated vide Advertisement No. 1 of 2007 in so far as it relates to unskilled labourers, a copy of which is enclosed at Annexure-1. Subsequently, an interlocutory application bearing I.A. No. 4420 of 2018 was filed seeking leave of the Court to question the order canceling the selection process contained in the letter dated 16.04.2015 of the Officer on Special Duty and the subsequent letter dated 05.05.2015 of the same authority addressed to General Manager, copies of which are impugned at Annexure-6 series.

The prayer has been allowed by this Court vide order passed on 10.07.2018 on I.A. No. 4420 of 2018.

I have heard learned counsel for the parties and I have perused the records.

The facts lie in a very narrow compass. An advertisement was brought by the erstwhile Bihar State Electricity Board for filling up of post of Junior Line Man and Unskilled Labourers, a copy of which is at Annexure-1. While the educational qualification for Junior Line Man was prescribed as I.T.I.



(Electricity/Wireman), in so far as the unskilled labourers applicants were concerned, they were required to have a Class 8 pass certificate. The petitioners applied for the post, a selection process was initiated but remained incomplete, forcing these petitioners to this Court in C.W.J.C. No. 3700 of 2014.

The writ petition was heard and disposed of by order dated 02.05.2014 with the direction to the Board to complete the selection process initiated through an Advertisement No. 1 of 2007 within 6 months of receipt/ production of a copy of the order. This order was passed by a coordinate bench taking note of the reorganization of the Bihar State Electricity Board to constitute the Bihar State Power Holding Company and its distribution companies. The order of the coordinate bench was never appealed against, before a superior forum and has attained finality.

Since the exercise was not completed as per the mandamus issued, that a contempt application was filed by the petitioners giving rise to M.J.C No. 649 of 2015 but at that stage the Court was informed that a decision has been taken to cancel the selection process through letter dated 16.04.2015 and 05.05.2015 enclosed at Annexure- 6 series to the present proceeding. These orders were brought on record through the show cause reply filed on behalf of the respondents and it is taking note of these



developments that the petitioners chose to withdraw the contempt application for questioning the same in an appropriate proceeding, whereafter, the writ petition has been filed when parties have been heard.

While it is the argument of Mr. Barnwal learned counsel for the petitioners that the rules of the game having been fixed by the Bihar State Electricity Board, vide advertisement at Annexure- 1, the Bihar State Power Holding Company having stepped into their shoes, they possess no jurisdiction to alter the stipulation nor to cancel the process. In reference to the order of the coordinate Bench passed in C.W.J.C No. 3700 of 2014, he submits that the mandamus issued by the coordinate bench, to complete the selection process, has attained finality and thus the respondent Authorities of the Bihar State Power Holding Company cannot wriggle out of the situation.

Per contra, it is the argument of Mr. Singh, learned Senior counsel for the respondent Power Holding Company that the qualification prescription for appointment of Unskilled Labourers, having undergone a change, since the process remained inconclusive, that decision has been taken to do away with the same, which are on record at Annexure-6 series and suffer no infirmity. He submits that a decision has been taken to refund the



application amount and the petitioners would be at liberty to receive the same.

I have heard the parties and I have perused the records.

Two issues fall for consideration in the present case namely:

(a) Whether the Bihar State Power Holding Company, who have stepped into the shoes of the erstwhile Bihar State Electricity Board, can interfere with the stipulation present in the advertisement, in so far as it concerns the Unskilled Labourers simply because the State Government has chosen to do so; and

(b) In view of the mandamus issued by the coordinate bench in the previous round of proceeding arising from C.W.J.C. No. 3700 of 2014 directing the respondent authorities to complete the selection process which order was never appealed against by the respondents, can they wriggle out the situation to cancel the process.

Having considered the submissions of learned counsel for the parties, I am of the considered opinion that the answer on each of the two issues is in the negative. Neither the respondent Power Holding Company has any jurisdiction to alter the educational qualification of the Unskilled Labourers as present in the advertisement at Annexure-1 for the rules of games cannot be changed once the process is started, nor do they have any choice but to obey the mandamus of the coordinate bench requiring them



to complete the selection process specially where they have allowed the mandamus to attain finality.

A cursory glance to the orders impugned would confirm that simply because the verification of the educational certificates of applicants to the post of unskilled labourers remained inconclusive and in the mean time the essential qualification underwent a change on 08.12.2014 i.e 7 years after the advertisement, that the arbitrary decision has been taken to cancel the selection process itself, completely ignorant that the mandamus issued by the coordinate bench has attained finality. In my opinion the order is not only arbitrary and is bereft of sound reasons but also borders on contempt and is an attempt to over reach the direction issued by the coordinate bench.

For the discussion above, respondent authorities i.e. respondent Nos. 2 to 4 are directed to abide by the earlier direction of this Court to complete the process initiated vide Annexure- 1 as per stipulation present therein, within 3 months from today and any attempt by the respondents who have stepped into the shoes of the Bihar State Electricity Board to interfere with the selection process would not only be held an attempt to overreach the mandamus issued in the previous round of proceedings but a contempt of the present order.



The writ petition is allowed with the direction
aforementioned.

(Jyoti Saran, J)

Bibhash/Ranveer

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13.08.2018
Transmission Date	NA

