

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6342 of 2016

Binod Kumar, son of Late Shir Prasad, resident of Village- Aurawa, P.S.- Rafiganj, District- Aurangabad (Bihar) at present residing at Plot No. 101D, L.I.G. Colony, Phase-I, Ashiyana Nagar, P.S.- Rajeev Nagar, Town and District- Patna- 800025 (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Director General of Police, Bihar at Patna.
3. The Inspector General of Police, Bihar at Patna.
4. Bihar Staff Selection Commission, P.O.- B.V. College, Sheikhpura, Town and District- Patna-800014 (Bihar) through its Secretary.
5. The Secretary, Bihar Staff Selection Commission, P.O.- B.V. College, Sheikhpura, Town and District- Patna-800014 (Bihar).

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhanendra Chaubey, Adv.
Mr. Arun Kumar Pandey, Adv.
For the Respondent-State : Mr. Rajeev Shekhar, AC to GA-13
For the Respondent BSSC : Mr. Ashok Kumar Dubey, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-06-2018

Heard Mr. Dhanendra Chaubey, learned counsel appearing for the petitioner, Mr. Rajeev Shekhar, learned Assisting Counsel to Government Advocate No.13 for the State and Mr. Ashok Kumar Dubey, learned counsel appearing for the Bihar Staff Selection Commission (hereinafter referred to as 'the Commission').

The petitioner seeks a direction to the respondents to issue appointment letter for the post of Jail Warden pursuant to the selection process initiated vide Advertisement No.10 of 2013, a copy of which is annexed at Annexure 1 to the writ petition.

Contesting the plea that a counter affidavit is filed by 'the



Commission’ and in which while admitting that the petitioner secured more than the cut off marks at paragraph 5, it is stated at paragraph 6 that since the petitioner is a trained Homeguard from the Jharkhand State he goes beyond the stipulation present in the advertisement.

Mr. Chaubey, learned counsel appearing for the petitioner contesting this position has argued that the petitioner is a resident of Bihar State and even if he is trained in the Jharkhand State, it would not disqualify him from consideration. It is taking note of his submission and while allowing the State to file counter affidavit as also ‘the Commission’ to clarify the position, the petitioner was directed to place his training certificate on record vide order passed on 3.5.2018.

It is following the direction that the training certificate is placed on record vide Annexure 6 to the supplementary affidavit and which itself closes the challenge for the petitioner. The advertisement at Annexure 1 invites application from the following category applicants:

“कारा एवं सुधार सेवाएँ निरीक्षणालय में कक्षपाल के रिक्त पदों की नियुक्ति हेतु भूतपूर्व सैनिकों एवं बिहार राज्य के प्रशिक्षित गृह रक्षकों से विहित प्रपत्र में ऑनलाईन (online) आवेदन आमंत्रित किये जाते हैं जो आयोग के बेबसाइट <http://bssc.bih.nic.in> पर उपलब्ध है। ”

While there is no restriction as regarding the ex-serviceman, in so far as the Homeguard is concerned, it is very clearly mentioned that it has to be trained Homeguard of the Bihar State. Even if, this Court felt persuaded with the argument of Mr. Chaubey that in absence of any restriction as regarding training obtained by a Homeguard of the State of Bihar the petitioner, a resident of this State having obtained training in



Jharkhand cannot be ousted but when the training certificate is produced by Mr. Chaubey, it transpires that the residence of the petitioner has been mentioned as 'ग्राम- A/E-7, ISWP तार कम्पनी परिसर, पो0 – इन्द्रानगर, थाना– टेल्को, जिला– जमशेदपुर'. Meaning thereby the petitioner as a resident of State of Jharkhand, has obtained the training certificate.

Once the petitioner has obtained training certificate of Homeguard claiming to be the resident of Jharkhand State, he cannot now shift his option to claim the benefit of the Training certificate so obtained, by now claiming to be a resident of the State of Bihar. The two submissions cannot go alongside. If the petitioner by Annexure 4 claims to be the resident of the State of Bihar then he cannot take the benefit of the training certificate at Annexure 6 and in case the details in the said certificate is to be believed, then he becomes a resident of Jharkhand State, going beyond the stipulation in the Advertisement.

In either situation the discretion exercised by the respondents cannot be faulted.

The writ petition is dismissed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26-06-2018
Transmission Date	NA

