

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19934 of 2014

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Kumari Pallavi D/o Dr. Rajendra Prasad Sinha, resident of Vill+P.O. Bele P.S.-
Nalanda, District- Nalanda at present residing at Mohalla Lalji Tola near Devi
Mandir, Post Office G.P.O., Police Station Gandhi Maidan, District Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat Building, Patna- 800 015 null null
2. The Principal Secretary, Health Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800 001 null null
3. The Additional Secretary, Health Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800 001
4. The Joint Secretary, Health Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800 001
5. The Deputy Secretary, Health Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800 001
6. The Director-in-Chief, Health Services, Health Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800 001
7. The Director, Indigenous Medicine, Health Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800 001
8. The Deputy Director, Ayurvedic, Health Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800 001
9. The Principal, Government Ayurvedic College, Kadam Kuan, Patna
10. The Principal, Government Ayurvedic College, Begusarai
11. The Principal, Government Tibbia College, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Verma, Advocate
For the Respondent/s : Mr. Sunil Kumar, AC to GP 11

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 18-08-2018

Heard learned counsel for the petitioner and the respondent State.

2. On 29.11.2013 an advertisement was issued for selection of the Ayurvedic/Resident Medical Officer through walk-in interview. The essential qualification prescribed therein was degree of BAMS apart from other qualifications including preference to those having experience and post graduate degree.



3. Petitioner participated in the selection process without any objection. The result of the selection process under Annexure 5 was published on 29.11.2014. It is only when the petitioner's candidature was rejected under the merit list dated 29.11.2014 on the ground that she did not possess the degree of BAMS that she has filed the instant writ petition.

4. It is submitted by counsel for the petitioner that petitioner's degree namely, G.A.M.S (Graduate of Ayurvedic Medicine and Surgery) has been declared equivalent degree to BAMS by the Hon'ble Apex Court in the case of **Bihar State Council of Ayurvedic and Unani Medicine vs. State of Bihar & Ors** in Appeal (Civil) 4643 of 2003 and other analogous cases. Petitioner's submission is that since the essential qualification in the advertisement was degree of BAMS and degree of GAMS has been declared to be a equivalent degree to BAMS under the order of the Hon'ble Apex Court, petitioner's exclusion on the ground of not possessing the BAMS degree is not sustainable in the eye of law.

5. The admitted position is that when the advertisement was published, the requisite qualification for the purpose of appointment was limited to the degree of BAMS. The petitioner did not possess the degree of BAMS. Bare perusal of the advertisement would show that the essential qualification did not include any other equivalent degree of BAMS. The petitioner not having BAMS degree



has participated in the selection process without any objection knowingly well that her degree of GAMS was excluded under the advertisement.

6. Having participated in the selection process and on being declared unsuccessful, the petitioner cannot be allowed to challenge the advertisement under which she has participated in the selection process.

7. Reliance placed on the said judgment of the Hon’ble Apex Court, is not applicable in the case of the petitioner, since from paragraph 3 of the said judgment, it is quite evident that in the said case the petitioner sought relief at an earlier stage that they be permitted to fill up the forms and to take part in the examination but the situation is different in the instant case. Here the petitioner approached this Court after participating in the selection process when he has been disqualified from the selection process and declared unsuccessful. She has participated in the selection process without any objection knowing fully well that her degree of GAMS was excluded under the advertisement.

8. Having considered the aforesaid facts, at this belated stage the claim of the petitioner is devoid of merit and is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

