

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16398 of 2004**

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Baij Nath Prasad son of Bishwanath Sah, r/o Village & PO Langha Dumari,  
PS and Block Sahpur, District Bhojpur Ara

... .. Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate Bhojpur at Ara
3. The District Panchayat Officer, Bhojpur at Ara
4. The Block Development Officer Piro District Bhojpur at Ara

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr.Jitendra Kumar Roy  
For the Respondent/s : Mr.Sc10

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL JUDGMENT**

**Date : 25-09-2019**

The writ petition has been filed for quashing of the order passed by the District Magistrate. Bhojpur, dated 29.3.2003. Services of the petitioner as Panchayat Sewak has been terminated by virtue of dismissal order dated 29.3.2003 by the District Magistrate, Bhojpur.

The case of the petitioner is that without affording the protection of procedural safeguards in a duly constituted proceedings the petitioner has been dismissed by order dated 29.3.2003 issued by the District Magistrate, Bhojpur.

The order of the District Magistrate, dated 29.3.2003, is a detailed order. However, Counsel for the petitioner submits that adequate opportunity was not granted to the petitioner in the proceedings. It is submitted by petitioner's Counsel that by giving age relaxation appointment of the petitioner was made as Panchayat Sewak from the post of Dalpati. The fact that petitioner's date of birth was



4.6.1951 and that he had crossed the 30 years upper age limit for the appointment is irrelevant. The appointment being given by relaxing the age on 3.5.2000, the date of birth being 1951 is wholly irrelevant as even if the petitioner had crossed 30 years age, the same could not be made basis of holding the appointment to be illegal. From the documents available on record, Counsel for the petitioner submits that since the appointment was obtained by virtue of relaxation of age, the bogey raised by the respondents in respect of petitioner's matriculation certificate is wholly irrelevant.

The sequence of events leading to the petitioner's appointment, which are relevant for the issue in question, are that on 3.5.2000 the selection committee recommended petitioner's appointment. On 2.6.2000 a proposal for relaxing the age criteria was sent to the Director, Panchayat Raj, Bihar Patna. In the said recommendation, the petitioner's date of birth was mentioned as 4.6.1957 as per his seniority list of 1999 as the petitioner was already working as Dalpati. The Director Panchayat Raj granted the relaxation of age on 1.8.2000. The age relaxation having been granted, the petitioner went for training and at this point he had submitted two copies of self attested matriculation certificate in the District Panchayat Raj Office. The date of birth was mentioned as 4.6.1957, father's name Vishwanath Sah, Roll No. 43330415 and name of the School was T.A.J. High School Dhamar. The certificate was for 1974 annual examination. The certificate was sent for verification to the Bihar School



Examination Board. The same was submitted at the District Panchayat Raj Office as well as at the Training Institute where the petitioner had been sent for training at Brambey in Ranchi.

On 13.7.2002 report was sent by the Bihar School Examination Board that no candidate by the name Baijnath Prasad (petitioner) had participated in 1974 annual examination. Even the school leaving certificate was not corroborated by verification report.

In view of the aforesaid findings, the District Panchayat Raj Officer, Bhojpur requested the petitioner to produce his matriculation certificate on the basis of which he had been selected and on the basis of which he had participated in the training done at Central Training Center at Brambay, Ranchi. The petitioner however produced a different certificate on 23.7.2002 showing him to have passed matriculation examination, wherein a different date of birth was mentioned as 4.6.1951. Father's name was mentioned as Vishwanath Sah. However the school's name in this certificate was also different, and mentioned as High School, Kalyanpur. The number of the certificate was FN 042187.

In the circumstances, a show cause notice was issued on 13.8.2002. The petitioner did not submit any reply and submitted the subsequent certificate containing his date of birth as 4.6.1951. Neither mark sheet nor the admit card was produced and no statements were made in response to the show cause. Again a show cause was issued to the petitioner, wherein these facts had been taken note of, necessitating



issuance of show cause. On 19.10.2002 he submitted his second show cause. Again he relied upon the subsequent certificate wherein his date of birth had been recorded as 4.6.1951.

In spite of two opportunities granted to the petitioner he did not respond as to under what circumstances he had submitted copy of matriculation certificate containing different details including a different date of birth. He never produced the original of the certificate which he had produced at the time of his selection and while being sent for training wherein his date of birth was recorded as 4.6.1957. Even in these proceedings, certificate containing petitioner's date of birth as 4.6.1957 and showing him to be a student of T.A.J. High School Dhamaur has not been produced. It was on basis of that certificate which showed the petitioner to have appeared in the annual matriculation examination of 1974 that the petitioner had initially obtained his selection and was sent for training.

The authorities had allowed the petitioner opportunity to submit the same in original. The petitioner did not submit the same. He did not even submit a copy thereof either before the authorities or in the instant proceedings. Earlier in these proceedings, records relating to selection of the petitioner were called for, as is apparent from the order dated 13.8.2010 itself in these proceedings. Having examined the records this Court had directed the respondent authorities to place on record the relevant documents which were relating to the process of selection of the petitioner and containing copy of the matriculation



certificate submitted by the petitioner at the time of his selection on 3.5.2000 wherein his date of birth was mentioned as 4.6.1957.

The supplementary counter affidavit contains a copy of the self attested matriculation marksheet submitted by the petitioner showing him to be a student of TAJ High School Dhamar. The same is Annexure 'A'. The verification report from T.A.J. High School and the Joint Secretary (Vigilance Cell) of the Bihar School Examination Board has also been enclosed at Annexure 'B' and 'C', from which it is evident that the said marksheet and certificate could not be corroborated by the contemporaneous records in the Bihar School Examination Board or the original records of the school.

The respondents have also enclosed the response submitted by the petitioner when opportunity was granted to him by virtue of show cause issued on 1.7.2002, wherein he has enclosed a different matriculation certificate showing a different date of birth i.e. 4.6.1951 and different details of Madhyamik Pariksha from a different school namely High School, Kalyanpur. Bare perusal of the certificate submitted by the petitioner in support of his selection done in the year 2000 would make it obvious that this matriculation certificate could not have been submitted by the petitioner at the time of his selection since the same as per date mentioned in the certificate itself has been issued in the year 2002 i.e. about two years after he had been selected.

Ever since show cause has been issued to the petitioner in the year 2002 till date he has not produced a copy or the original matriculation certificate wherein his date of birth was mentioned as



4.6.1957 and on the basis of which he had been selected. On being required to submit copy of the same by the authorities for verification he has submitted a different matriculation certificate which is evident from Annexure 'D' to the supplementary counter affidavit. That matriculation certification which now the petitioner claims to be basis of his selection, cannot be accepted for the simple reason that apart from the details including date of birth being different in this certificate, the date of issuance of the same is also 10.7.2002 i.e. much after selection of the petitioner in August 2000. Primafacie, the claim of the petitioner that he was selected on basis of this matriculation certificate is unsustainable.

The petitioner has not even produced matriculation certificate submitted by him at the time of his selection in the year 2000 even in these proceedings. In the circumstances, this Court finds that the pleadings on record including the averments made by the petitioner in this writ petition are insufficient for this Court to conclude the authenticity/genuineness of the certificate dated 10.7.2002 to sustain his selection done even prior to issuance of the certificate i.e. selection in August 2000.

This Court does not find any reason to interfere with the order passed by the District Magistrate Bhojpur as no case for interference is made out by the petitioner.

The writ petition is dismissed.

**(Madhuresh Prasad, J)**

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