

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1592 of 2015**

**In**

**Civil Writ Jurisdiction Case No.3298 of 2015**

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1. Dr. Upendar Prasad Singh and Ors Son of Sri Jeewachh Singh Resident of Village P.O. - Saini, P.S.- Fulparas , District- Madhubani.
  2. Dr. Amrendra Kumar Son of Sri Ram Prasad Yadav Resident of Village P.O. - Bachchhi, P.S. - Baheri, District- Darbhanga.
  3. Dr. Vimal Kumar Thakur Son of Late Rameshwar Thakur Resident of Village - Gangwara , P.O. - Sara Mohanpur, P.S. District- Darbhanga.
  4. Dr. Brahma Nand Pandit Son of Sri Satyadeo Pandit, Resident of Village - Pathalgdha, P.O.- Kumar Khat , District- Madhubani.
  5. Dr. Abdul Khalik Khan Son of Sri Jammluddin Khan Residnet of Village P.O. P.S. - Nasriganj , District- Rohtas.
  6. Dr. Jagat Kumar Son of Late Ramnandan Mahto , Resident of Village P.O. - Vishanpur Hakimabad , P.S. District- Samastipur.
  7. Dr. Sunil Kumar Son of Late Chandrika Prasad Singh Resident of Mohalla- Tilka Kushwaha Colony , P.S.- Civil Line Gaya, District- Gaya.
  8. Dr. Kumari Neelam Wife of Dr. Jitendra Prasad Resident of Village P.O. - Bathua Bazar, P.S. - Fulwari , District- Gopalganj. Petitioners in C.W.J.C. No. 3298 of 2015.

... .. Appellant/s

Versus

1. The State of Bihar and Ors
2. The Director , Health Services , Government of Bihar, Patna.
3. The Executive Director , State Health Society , Bihar , Parivar Kalia Bhawan Seikhpura Patna.
4. The Director , Rajaya Swasth Samiti , Government of Bihar, Patna
5. The Deputy Director, Deshi Chikitsa Health Department , Government of Bihar, Patna. Respondents

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Satya Narayan Mishra, Adv.  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**and**

**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**

**Date : 23-01-2019**

Heard Mr. Satya Narayan Mishra, learned counsel for  
the appellant. None appears for the State.



This appeal arises from a judgment and order dated 29.06.2015 of a learned Single Judge passed in C.W.J.C. No.3298 of 2015 whereby the writ petition was dismissed in reference to an earlier order passed in C.W.J.C. No.3463 of 2015 which writ petition involving similar issues was also dismissed vide order passed on 13.5.2015.

We have heard Mr. Mishra, learned counsel for the appellant and having perused the records, we find that the entire arguments of learned appellant counsel revolves around the advertisement issued by the State Health Society inviting applications for filling up the post of 'Ayush' Doctor for which the maximum age as on 01.10.2013 was fixed at 45 years. This fixation of age of 45 years has aggrieved the appellant-petitioners because according to them the upper age limit in previous selection was fixed at 60 years and thus the State Health Society should not have deviated from such prescription which is discriminatory.

We take notice of the fact that this advertisement was never questioned by these appellants-petitioners rather having undergone a selection process and being disqualified on age grounds that they have returned to this Court through the writ petition in question which has been rightly dismissed because



having accepted the terms and conditions of the advertisement to undergo selection process, the applicants cannot return to question the stipulations present in the advertisement on any count. Even otherwise, the qualifications, be it age or educational, is absolutely at the discretion of the employer in consonance with the service rules regulating such appointment and since the appellants petitioners have failed to demonstrate that such age prescription runs counter to the rules regulating such appointment, we are not persuaded either to interfere with the age stipulations present in the advertisement or with the opinion expressed by the learned Single Judge.

The appeal is dismissed.

**(Jyoti Saran, J)**

**( Nilu Agrawal, J)**

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