

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16024 of 2007

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S.K.Ahmad, Son of Sk. Teharat, Resident of Village Pripainti Bazar, P.S. Pirpainti, Dist. Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Bhagalpur.
3. Sub-Divisional Officer, Kahalgaon, Bhagalpur.
4. Block Development Officer, Pirpainti, Dist. Bhagalpur.
5. Narim Khatoon, Wife of Md. Kalim Khan, Village and P.O. Pirpainti Bazar, P.S. Pirpainti, Dist. Bhagalpur, presently Sarpanch of Pirpainti Panchayati under Pirpainti Block.
6. Smt. Shila Sinha, Nodal Officer of Pirpainti Panchayati nominated by Block Development Officer, Pirpainti.
7. Md. Afroz, son of Md. Lajim, resident of Village and Post Pirpainti Bazar, P.S. Pirpainti, Dist. Bhagalpur.
8. The Divisional Commissioner, Bhagalpur Division, Bhagalpu.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mukesh Kr. Jha, Adv. Mr. Tarun Pd. Mandal, Adv.
For the State	:	Mr. Shiv Kumar, AC to GA3
For the Resp. No.7	:	Mr. Sheojee Mishra, Adv. Mr. Shivji Pandey, Adv.
For the Resp. No.5	:	Mr. Mukul Jee, Adv.
For the Resp. No.6	:	Mr. Nirmal Kumar Tripathi, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 08-02-2019

Learned counsel for the petitioner prays for is allowed to implead Commissioner, Bhagalpur Division as party respondent no.8 in the present writ application.

Heard learned counsel for the parties.

The petitioner is challenging the appointment of respondent no.7 who has been appointed on the post of Secretary of Gram Kutchery, Pirpainti.



As per case, the notice was published for recruitment of Secretary of Gram Kutchery, Pirpainti. Accordingly, number of persons including the present petitioner applied for the said post. The petitioner has secured the highest marks in the Matriculation but, the respondent no.7, who has been appointed as Secretary of Gram Kutchery, has secured marks much below than the petitioner.

From the records, it appears that the petitioner has not been selected on account of the fact that he has not filed the residential certificate at the time of counseling which was the essential for the selection of Secretary of Gram Kutchery.

Learned counsel for the petitioner submits that the plea that has been taken is belied from the fact that those persons, who did not file the requisite document, after scrutiny, their applications were rejected outrightly but, as the petitioner has submitted all the documents including the residential certificate, his name has not been mentioned in the rejected application and the ground that has been taken by the Sarpanch as well as respondent no.7 is completely incorrect but, purposely the name of the petitioner has wrongly been rejected in order to give favour to the respondent no.7.



It is a disputed question of fact as to whether the petitioner has filed the residential certificate at the time of counseling or not. This part cannot be verified in the present proceeding. Accordingly, the matter is remanded back to the Commissioner, Bhagalpur Division who will hold an enquiry about the authenticity of the statement of the petitioner of filing the residential certificate at the time of counseling. If the finding goes in favour of the petitioner, it goes without saying that the authority will be obliged to recruit the petitioner in place of respondent no.7 but, if the finding goes against the petitioner, in such circumstances, there will be no need to take any action against the respondent no.7.

The Commissioner will hold enquiry and complete the entire process within a period of four months from the date of receipt/production of a copy of this order along with a representation filed by the petitioner. Before taking a final decision, the Commissioner will give an opportunity of hearing to both the sides.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2019
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