

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8720 of 2020

Divya Lakshmi Wife of Jeetendra Singh Maurya, resident of Azad Nagar, Ward No. 2, Police Station - Bhabhua, District - Kaimur at Bhabhua, and at present resident of Village - Amadhi, Police Station - Sonhan, District - Kaimur at Bhabhua, State - Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. Bihar Technical Service Committee through its Secretary, Hardinge Road, Government of Bihar, Patna.
4. The Chairman, Bihar Technical Service Committee, Hardinge Road, Government of Bihar, Patna.
5. The Secretary, Bihar Technical Service Committee, Hardinge Road, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Sanjeev Kumar, Advocate
For the S t a t e	:	Mr Manish Kr, GP IV
For the B T S C	:	Mr Nitesh Kr, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 02-11-2020

This case has been taken up for consideration through Video Conferencing.

2 Heard learned counsel for the petitioner and the respondents.

3 The case of the petitioner is that she had applied for appointment on the post of Staff Nurse Grade A in the process of



selection initiated under Notification dated 12.07.2019 by the Bihar Technical Service Committee (for brevity, *BTSC*).

4 The petitioner applied against the reserved category WBC (Backward Woman). She has not been declared selected in the process of selection.

5 From the pleadings in the writ petition, the admitted position is that the petitioner was not registered with the Bihar Nurses Registration Council (for brevity, *BNRC*) and did not possess a certificate of registration issued by the BNRC on the date on which her counselling was held.

6 With the above noted facts in the background, the learned counsel for the petitioner submits that the decision not to select the petitioner is founded on a hyper technical and frivolous reason that she could not produce her certificate of registration issued by the BNRC. It is the submission of the petitioner's counsel that the petitioner had duly applied for the certificate of registration before the BNRC online on 10.02.2020. The receipt of her application for the certificate of registration was produced by the petitioner at the time of counselling and she was assured that she would be granted sometime to submit the same. It is further submitted that no time has been granted to the petitioner to submit the certificate of registration issued by the BNRC, beyond the date



of her counselling. Though she was fit on all other counts, she has suffered disqualification in the process of selection for non-production of certificate of registration issued by the BNRC, even though issuance of the certificate by the BNRC is not within the control of the petitioner and delay in issuance of the certificate, if at all, can only be attributed to the BNRC.

7 Learned counsel for the State as well as the learned counsel for the BTSC have drawn attention of the Court towards an earlier decision in connection with the same selection process wherein the same issue has been considered by this Court in *CWJC No 7274 of 2020 (Mahipal Yadav & Others -Versus- State of Bihar & Others)*. In the case of Mahipal Yadav (supra) also, the candidates (petitioners) had not produced the registration certificate issued by the BNRC on the date of their counselling. In that case also, the applicants had placed on record their applications for transfer of their certificate of registration from Rajasthan to BNRC. In the case of Mahipal Yadav (supra), the petitioners had also raised the plea that they were assured at the time of their counselling that they would be allowed sometime to produce the registration certificate issued by BNRC, issuance of which was still pending with the BNRC.



8 Having gone through the judgment of this Court in the case of Mahipal Yadav (supra), this Court is convinced that the petitioner is similarly situated as the petitioners of CWJC No 7274 of 2020. In this case also, the petitioner did not have certificate issued by the BNRC till the date of her counselling, which, in this case, is 03.03.2020, instead of 17.03.2020 in the case of Mahipal Yadav (supra). The process of selection, in issue in the instant proceedings, is also the same being based on advertisement issued by the BTSC on 12.07.2019. Terms and conditions and process of selection are one and the same, as that in the case of Mahipal Yadav (supra). This Court has considered the same issue and passed an order in CWJC No 7274 of 2020, relevant extract of which is being reproduced herein:

“As per pleadings in the writ petition, the petitioners did not have certificate issued by the BNRC even till the last date of counselling, i e, 17.03.2020. They, however, have pleaded that before the last date fixed for counselling, they have applied to the authorities, that they may be given some more time to submit the registration certificate issued by the BNRC as they had already applied for transfer of their certificate of registration from Rajasthan to BNRC.

Candidates, as per corrigendum dated 04.10.2019, were required to appear for counselling along with certificate issued by the BNRC. The requirement of submission of BNRC registration certificate on the date of counselling is a uniform requirement in the process of selection.



The petitioners' counsel has not been able to show any provision conferring any discretion on the authorities to relax the same in favour of any one for any reason whatsoever. The expectations of the petitioners based on mere application allegedly submitted by them for extension, that they have a right to extension of the last date, which, if allowed, would in fact be contrary to the terms of advertisement dated 12.07.2019 read with corrigendum dated 04.10.2019, is legally unsustainable. Having failed to produce certificates issued by BNRC on the date of counselling, the petitioners' candidature stood disqualified from the selection process.

Based on pleadings made in the writ petition, no right is made out for claiming consideration in the process of selection.

The writ petition is devoid of merit. The same is dismissed."

9 The case of the petitioner is arising out of the same advertisement, same process and same terms and conditions. Rejection of the petitioner's candidature for admitted non-production of registration certificate issued by the BNRC on the date of counselling is also on the same ground. The grievance of the petitioner, therefore, is squarely covered by earlier decision of this Court in the case of Mahipal Yadav (supra), in CWJC No 7274 of 2020.

10 No right has been made out for claiming issuance of a direction to consider the candidature of the petitioner for appointment on the post of Staff Nurse Grade A.



11 Writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.11.2020
Transmission Date	NA

