

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1614 of 2020

1. Ravi Chandra Prasad Son of Late Suresh Chandra Prasad Resident of Village- Harshpura, P.S.- Daudpur, District- Saran at Chapra, at present residing at E/203, Raj Kishor Complex, Mulchand Path, Kankarbag, P.S.- Patrakar Nagar, District- Patna.
2. Vikas Kumar S/o- Shri Krishan Mohan Prasad Resident of Village- Bajitpur Chakasturi, P.S.- Desari, District- Vaishali at Hajipur.
3. Harendra Kumar S/o Late Jhalakdeo Singh Resident of Village- Repura, P.S.- Akauni, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Govt. of Bihar, Patna.
2. The Secretary Health Department, Govt. of Bihar, Patna.
3. The Chief Executive Officer Bihar Swasthya Suraksah Samiti (BSSS).
4. The Executive Director Bihar Swasthya Suraksah Samiti (BSSS).
5. The Administrative Officer Bihar Swasthya Suraksah Samiti (BSSS).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prabhakar Singh
For the State	:	Mr.Mujtabaul Haque (GP 12)
		Mr. Mrintunjay Kumar, AC to GP 12
For Bihar Swasthya Suraksha Samiti (BSSS)		Mr. Shantanu Kumar

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 24-02-2020

Heard counsels for the parties.

2. On 18.08.2019 advertisement was published inviting applications for filling up vacancies of several posts for implementation of AYUSHMAN BHARAT-PRADHAN MANTARI JAN AROGYA YOJNA (AB-PMJAY) in the State.

3. Petitioners applied for the post of District Programme Coordinator (hereinafter referred to as 'Coordinator')



for the sake of brevity). Petitioners were issued admit cards for appearing in the written examination and also called for personal interview. Petitioners however, were not allowed to appear for the interview on 10.12.2019 on the ground that they did not possess requisite/ essential qualification.

4. Writ petition has been filed seeking direction upon the respondents Bihar Swasthya Suraksha Samiti (BSSS) to fix a fresh date for petitioners' interview and to restrain them from filling up vacancies during pendency of the writ petition.

5. The grievance of the petitioners is that they possessed requisite/ essential qualification in terms of the advertisement. However, they had been ousted from process of the selection on the ground that they were not possessing requisite qualification. This Court therefore, would consider it useful to re-produce the essential qualification and experience for the post of the District Programme Coordinator, which reads as follows:-

Essential qualification: "Post Graduate in Social Work/PGD in healthcare or MBA/Master of Health Administration/ Hospital Management or Master of Public Health from university/institution".
Essential Experience: Minimum of 5 years of experience in implementation of Government Health or related programme.

6. Admitted position in so far as petitioners' qualifications are concerned is that petitioner no.1 possessed MBA degree. Petitioner no.2



possessed MA (Post Graduate degree). Petitioner no.3 possessed MBA degree. Petitioners' specific case is that since they possessed MBA and Post Graduate Degree, they were possessing essential qualification in terms of advertisement.

7. If essential degree was the only criteria prescribed in the advertisement, petitioners clearly could not have been ousted from process of the selection. In the instant case, however, apart from prescribing degree, advertisement also required essential qualification of the degree of MBA or Post Graduate in specified subject/s. Therefore, candidate having degree of MBA or Post Graduate degree in subject other than those mentioned in the advertisement can not be said to be possessing the essential qualification. Unless the candidate possessed degree of MBA/Post Graduate degree in the subject specified in the advertisement, they could not be considered eligible for the process of selection.

8. The specific stand of the respondent- BSSS is that petitioner no.1 possessed MBA degree with major specialization in Marketing Management and minor specialization in Financial Management. Petitioner no.2 possessed MA (Post Graduate degree) in clinical psychology. Petitioner no. 3 possessed MBA with major specialization in Human Resource Management and Financial Management.

9. Petitioners have not denied such specific assertion of the respondent BSSS in para 14 and 22 of the counter affidavit regarding the subject in which they possessed MBA or Post Graduate degree. No where in the entire pleadings, have petitioners stated that they possessed MBA in Health Administration/ Hospital Management which was the essential subject for the degree of MBA specified in the advertisement. It is also not the case of the petitioners that they possessed Post Graduate in social work /Health Administration/ Hospital Management, or Public Health as per essential qualification specified in the advertisement.



10. In terms of the advertisement in response to which petitioners applied, they were required not only to possess the degree of MBA/MA (Post Graduate). The degree was to be in the subject specified in the advertisement. Petitioners only had requisite degree of MBA/MA (Post Graduate). The same as per petitioners' case is not in the subject specified in the advertisement. On the contrary the specific assertion of respondent-authority regarding subjects in which petitioners possessed degree of MBA/MA (Post Graduate), as per paragraphs 14 and 22 of the counter affidavit, taken note of hereinabove in support of which print out of petitioners' application have been annexed as Annexure C series to the counter affidavit, has not been denied or disputed by the petitioners.
11. From bare perusal of the print out of the petitioners' application summary, it is evident that they possessed qualification/degree in the subject as stated by the respondents in the counter affidavit, which has been taken note of hereienabove.
12. Since the degrees of MBA and MA possessed by the petitioners were not in the essential subject specified in terms of the advertisement, petitioners are clearly ineligible for the selection in question.
13. Petitioners' counsel has strongly urged that on basis of their MBA/ Post Graduate degree in the subject held by them they have been allowed to participate in the written examination and on being declared successful therein had also been called for personal interview. Once petitioners' degree/ qualification in the subject held by them had been accepted and they had been called for interview, they could not have been debarred from appearing at the interview or process of the selection. Such a submission is a submission, which can not enure petitioner's claim. More so, in view of the scheme of the process of the selection wherein instructions for filling up on line application specifically provided that candidates should fill up the form, if they fulfill required eligibility criteria only. Documents of the eligible candidates were to be verified



after submission of on line application forms and point 10 of the instructions provided that if any information filled up in the on line application is found to be false during verification, or on a future date, their candidature was liable to be summarily rejected. It is the specific case of the respondents that in the on line application which was declaratory in nature, a drop down menu containing limited option of the essential qualification(including subject) was provided . The drop down menu did not provide any option other than the essential qualification in the specified subject in the advertisement.

14. As per print out of on line application summary (Annexure C series) of three petitioners, petitioner no.1 selected option “MBA” in Health Administration, though it is not case of petitioner no.1 that he possessed MBA in Health Administration. Likewise petitioner no.2 chose the option of MA in social work, though he did not possess MA in social work. Petitioner no.3 chose the option of MBA in Public Health though he does not have MBA in Public Health.

15. The choices have been opted from drop down manu because the options contained herein were limited to the subject as per essential qualification prescribed in the advertisement. From the on line application of petitioners in the column of qualification details it is evident that the petitioners MBA/MA (Post graduate degrees) were in subjects other than the essential qualification in the advertisement, and also other that what they had chose and submitted form the limited options in the drop down manu in the on line application. Petitioner no.1 has submitted the documents/ details of educational qualifications to show that MBA is with major specialization in Marketing Management and minor specialization in Financial Management. Clearly petitioner no.1 was not possessing requisite qualification in the requisite subject as per the terms of advertisement.



16. Petitioner no.2 has filled up column of educational detail showing MA (Post Graduate) in clinical psychology though in limited drop down menu he has selected in social work which he did not possess. He too is clearly disqualified for the process of selection.

17. Petitioner no.3 in the column of educational detail in the on line application form has specified the subject of his MBA as specialization in Human Resource Management/ Financial Management though in limited drop down manu he has selected MBA in Public Health which he does not possess. Petitioner no.3 also therefore does not possess requisite degree in the required subject as per advertisement.

18. Three petitioners not having requisite qualification can not claim any right to be considered let alone selected in the process of selection of the District Programme Coordinator pursuant to Advertisement No. 04/2019. Respondents have rightly disqualified the petitioners from the process of selection. Disqualification of the petitioners was done after scrutiny of the documents when it was discovered that their degrees were not in the essential subject as per the advertisement.

19. Petitioners' counsel has placed reliance of a print out of the judgment of the Apex Court in the case of *Ashish Kumar vs. The State of Uttar Pradesh & ors passed in Civil Appeal Nos. 170-171 of 2018 arising out of SLP (C) Nos. 24387-88/2013*.

20. The judgment relied upon by the petitioners is factually distinguishable from this case. In that case, qualification was mentioned as graduate L.T./B.T./B.Ed. and was pre-fixed with “ in the subject of psychology”. Thus, all the candidates having psychology as their subject whether in graduation in L.T./B.T, or B.Ed. were considered eligible by the Hon'ble Apex Court as they formed one class having study of psychology. The instant case is just the opposite on facts where petitioners in these proceedings have MBA/MA (post graduate) but have not studied in the subjects as per essential qualification in the



advertisement. Petitioners therefore, have no right to participate in the process of selection in view of foregoing consideration.

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

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.10.2020
Transmission Date	NA

