

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5977 of 2020

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1. Shashi Varsha Daughter of Sri Narendru Kumar Roy, Resident of Flat No. 105, Brij Behari Enclave Apartment, North Mandiri, P.O. G.P.O. P.S. Buddha Colony, District- Patna.
 2. Dipika Sharma, D/o of Sri Sunil Kumar Sharma, Resident of C/o Nand Mohan Sharma, East Indra Nagar, R.M.S. Colony, Road No. 1, P.S. Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Health Department, Govt. of Bihar
2. The Chief Executive Officer, Bihar Swasthya Suraksha Samiti, Extension Building, Block-3, 2nd Floor, Old Secretariat, Patna.
3. The Administrative Officer, Bihar Swasthya Suraksha Samiti, Extension Building, Block-3, 2nd Floor, Old Secretariat, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Abinash Kumar, Advocate
For the State	:	Mr.Ajay Bihari Singh (Ga8)
		Ms. Seema Ghazala, AC to GA-8
For Respondent Nos. 2&3:		Mr. Shantanu Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 13-12-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioners have prayed for
following reliefs:-

“1. That this writ application is being filed for issuance of direction/directions upon the respondent authorities to consider the candidature of the petitioners, who having degree of Specialization in Personnel Management & Industrial Relations or Human Resources Management equivalent to the degree of MBA and accordingly appoint them on the post of District Programme Co-ordinator.”



3. Petitioners intend to participate in the process of selection of District Programme Co-ordinator. Essential qualification/experience prescribed for the aforesaid post reads as under (page 21 of the petition):-

Sl. No.	Level	Position Name	Monthly Salary	Essential Qualification and Experience
		District Programme Coordinataor	Rs. 42,000/-	<u>Essential Qualification:</u> Post Graduate in Social Work/PGO in healthcare or MBA/Master of Health Administration/Hospital Management or Management or Master of Public Health from University/institution. <u>Essential Experience:</u> Minimum 5 years of experience in implementation of Government Health or related programmes.

4. Admittedly, petitioners do not fulfill the aforesaid qualification. They have the qualification of L.S.W. to Personal Management and Industrial Relation (mentioned at para 6 and 7 of the petition). The petitioners intend to treat the aforesaid qualification equal as to that of prescribed essential qualification for the post of District Programm Co-ordinator. Such an equalancy could be declared only under the legislation.

5. Time and again, Courts have held that Courts have no jurisdiction to amend the rule or prescribe the qualification contrary to the existing prescribed essential qualification. Courts cannot direct legislature to enact law in a particular manner as held by the Apex Court in the case of



Indian Soaps & Toiletries Makers Association Vs. Ozair Husain reported in *(2013) 3 SCC 641*. Therefore, the petitioners have not made out a case so as to interfere with the relief sought in the present petition.

6. Accordingly, the instant petition stands dismissed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.12.2021
Transmission Date	

