

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7205 of 2020

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Asha Kumari Daughter of Gopal Ram Resident of Sector 2-D, Quarter No. 1/203, Bokaro Steel City, District- Bokaro, Pin Code- 827001, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Department of Higher Education, Government of Bihar, Patna.
4. The Bihar Public Service Commission through its Secretary having office at Jawahar Lal Nehru Marg (Bailey Road), Patna.
5. The Chairman, Bihar Public Service Commission, Bihar, Patna.
6. The Secretary, Bihar Public Service Commission, Bihar, Patna.
7. The Joint Secretary-cum- Examination Controller, Bihar Public Service Commission, Bihar, Patna.
8. The Vice Chancellor, Guru Ghasidas Vishwavidyalaya, Bilaspur, Chattisgarh, India.
9. The Registrar, Guru Ghasidas Vishwavidyalaya, Bilaspur, Chattisgarh, India.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ravindra Kumar Singh
For the Respondent/s	:	Mr.Vivek Anand Amritesh (AC to SC 28)
For the B.P.S.C.	:	Mr.P.N. Shahi (Sr. Advocate) with
	:	Mr. Sanjay Pandey
	:	Mr.Nishant Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 21-01-2021

The facts which are not in dispute in the present proceeding under Article 226 of the Constitution of India are that pursuant to an advertisement issued vide Advt. No. 03 of 2016 by the Bihar Public Service Commission (hereinafter referred to as the B.P.S.C.) inviting applications for the post of Lecturer in



Physical and Health Education, the petitioner had applied as a Scheduled Caste category candidate. Qualification of M.P. Ed. was prescribed as one of the minimum eligibility criteria prescribed for the post in the advertisement. A written examination was held, in which, the petitioner, among various other candidates was declared successful. The B.P.S.C. thereafter came out with an interview programme on 26.05.2020 for the candidates, who were declared successful in the written examination. Clause 3 of the interview programme clearly prescribed that the candidates would be obliged to bring all certificates in original for the purpose of verification with two self attested copies thereof. As per the interview programme, a copy of which has been brought on record by way of Annexure D to the counter affidavit filed on behalf of the B.P.S.C., the original degree certificate of having acquired post-graduation in Physical and Health Education (M.P. Ed.) was one of such certificates which a candidate was required to produce at the time of interview. It was categorically mentioned in the note under Clause 3 of the interview programme that the certificates relating to educational qualification to be submitted at the time of interview must have been issued on or before the last date of submission of application forms. A separate interview letter was issued to the petitioner wherein the requirements of submission of



original certificates at the time of interview, as mentioned in the interview programme, were reiterated. It was also reiterated in the note below clause 2 of the interview letter that all educational certificates to be produced for verification must have been issued on or before the last date of submission of application form i.e. 22.06.2016. The petitioner was required to participate in the interview before the B.P.S.C. on 24.06.2020.

2. This is not in dispute that the petitioner did not have in her possession the original certificate in support of having obtained M.P. Ed. Degree. This is also not in dispute that till the said date of 22.06.2016, the degree certificate was, as a matter of fact, not issued by the University (Guru Ghasidas Vishwavidyalaya, Bilaspur, Chattisgarh), from where the petitioner claimed to have pursued her course.

3. The petitioner appeared for the interview. The final result of the interview was published on 04.07.2020 based on which the recommendations were made by the B.P.S.C. whereafter appointments have been made. The petitioner's name was not recommended as she had failed to produce original M.P. Ed. certificate though she had with her the mark-sheet of having passed the examination, original of which she had produced at the time of interview. It is the petitioner's case that candidates with



inferior merit have been recommended for appointment against vacancy reserved for Scheduled Caste category candidates and petitioner's candidature has been rejected merely on the ground that she failed to produce her original M.P. Ed. Degree certificate at the time of interview. In the background of the aforesaid facts that the petitioner has sought for a direction to the B.P.S.C. for consideration of her case for selection, as according to her, rejection of her candidature on technical ground of non-submission of original degree certificate in Physical and Health Education (M.P. Ed.) at the time of interview is wholly unjustified, illegal arbitrary and violative of Articles 14 and 16 of the Constitution of India. She is seeking a direction to the B.P.S.C. to publish her result for the post of Lecturer in question after allowing her reasonable opportunity to produce in original, the said certificate. The petitioner has, however, admitted that she could not get the said certificate at the time of interview despite the fact that she had already applied for the same but it was mainly because of complete lockdown in force all over the country, consequent upon the outbreak of COVID-19.

4. The facts stated in the writ petition clearly show that even on the date of filing of the writ petition, the petitioner did not have in her possession, the original of M.P. Ed. degree Certificate.



Counter affidavits have been filed on behalf of B.P.S.C. and the State of Bihar. A rejoinder affidavit has also been filed on behalf of the petitioner to the counter affidavit filed on behalf of the B.P.S.C.

5. Mr. Ravindra Kumar Singh, learned counsel appearing on behalf of the petitioner has relied on a Supreme Court's decision in case of ***Ram Kumar Gijroya v. Delhi Sub. Services Selection Board and Another*** reported in (2016) 4 SCC 754, ***Union Public Service Commission v. Dheerender Singh Paliwal*** reported in (2017) 11 SCC 276 to contend that on trivial ground of non-production of certificates in original at the time of interview, the petitioner's candidature itself could not have been rejected by the B.P.S.C. He has placed reliance on a coordinate Bench decision of this Court reported in 2019 (3) P.L.J.R. 466 in support of his contention. Reliance has also been placed on an unreported Division Bench decision of this Court in case of ***Central Selection Board of Constable v. Sushant Kumar Pandey*** wherein rejection of candidature of a candidate on the ground of non-production of matriculation original certificate at the time of process of selection for verification was not approved. He has submitted that it was because of extraordinary pandemic situation prevailing thorough out the country that the petitioner could not take effective steps for obtaining original M.P. Ed. Degree



certificate from the University. He has further submitted that this humane aspect ought to have been considered by the B.P.S.C. and the B.P.S.C. should have given the petitioner a reasonable time to produce the said degree certificate in original.

6. Mr. Sanjay Pandey, learned counsel representing the B.P.S.C. on the other hand has contended that admittedly the petitioner did not have M.P. Ed. Degree certificate issued by the University on or before the last date of submission of application form. It was categorically mentioned in the interview programme and the interview letter that candidates must produce their original certificates for verification issued on or before the last date of submission of application form i.e. 22.06.2016. He has submitted that the B.P.S.C. could not have awaited issuance of original certificates by the respective Universities/Institutions for the candidates to submit them as that would have adversely affected and seriously jeopardized the entire process of selection. There was a definite prescription in the interview programme and the interview letter that such certificates must have been issued on or before the last date of submission of application forms. He has argued that a selection process has to be conducted in accordance with the stipulated selection process which needs to be scrupulously maintained. He has heavily relied on a full Bench



decision of this Court in *Braj Kishore Prasad v. The State of Bihar and others* reported in 1998 (3) P.L.J.R. 34. Relying on a division Bench decision of this Court in case of *Dr. Santosh Kumar v. The State of Bihar and others* reported 2017 (1) P.L.J.R. 786 he has submitted that since admittedly the petitioner did not have the requisite certificate at any point of time, the B.P.S.C. had no other option but to reject the petitioner's candidature. He has also placed reliance on a recent decision of this Court dated 04.01.2021 rendered in C.W.J.C. No. 7661 of 2020 (*Pankaj Kumar v. The State of Bihar and others*) in support of his submission.

7. This is to be noted that it is an admitted fact that the petitioner did not have the required original certificate in her possession by the last date of submission of application form on 22.06.2016. The plea that outbreak of COVID-19 pandemic restricted the petitioner to pursue her case with the University to obtain the certificate is not at all acceptable to this Court, as the last date of submission of application was 22.06.2016, much before the outbreak of pandemic. There was no extraordinary situation prevailing which had prevented the petitioner from obtaining her original certificate from the University after she is said to have acquired the qualification. The decision of this Court



in case of ***Pankaj Kumar*** (supra) is direct answer to the submissions made on behalf of the petitioner. The division Bench decision in case of ***Central Selection Board of Constable v. Sushant Kumar Pandey*** (supra) does not support the petitioner's case since in that case benefit of doubt was given to the writ petitioner on rival contentions of submission of matriculation certificate at the relevant stage of the process of selection. The petitioner of that case was in possession of the requisite certificate and the dispute had arisen as to whether he had submitted the same at the time of selection or not. In the present case, the petitioner did not have the certificate at all and, therefore, there was no question of presentation of original certificate at the time of interview.

8. In such view of the matter, I do not find any merit in this writ application.

9. This writ application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

AKASH/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.01.2021
Transmission Date	N/A

