

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.50 of 2021

Chandani Kumari, Daughter of Late Dudheshwar Prasad, resident of Manpur Patwatoli, Opp. Daani Indra Deo Riverside Road, P.O. Buniyadganj, Gaya 823003, P.S. Buniyadganj, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administrative Department, Government of Bihar, Patna.
2. The Bihar Public Service Commission through its Chairman, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna-800 001.
3. The Joint Secretary cum Controller of Examination, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna-800 001.
4. The High Court Judicature at Patna, through its Registrar General, Patna High Court, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prince Kumar Mishra, Advocate
For the State	:	Mr. Gyan Prakash Ojha, GA 7
For the BPSC	:	Mr. Sanjay Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE VIKASH JAIN)

Date : 22-06-2021

Heard learned counsel for the petitioner and learned counsel for the respondents through video conference. Learned counsel for the petitioner has filed an undertaking that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of normal physical functioning of the Court, and in any event within one month thereof.

2. The present writ petition has been filed for the



following reliefs as formulated by the petitioner--

(i) For issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Certiorari for quashing clause 3 of the advertisement notification no.04/2020 dated 09.03.2020 issued by the Bihar Public Service Commission for conducting 31st Bihar Judicial Services Competitive Examination for appointment of Civil Judge (Junior Division) to the extent it prescribes arbitrary Cut-off date of 01.08.2019 with the minimum age limit of 22 years for appearing and participating candidates in the said examination on the ground that same is unconstitutional and in violation of the standard norm being followed by other examinations of equivalent status in the country.

(ii) For issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Certiorari for quashing and setting aside Rule 6 of the Bihar Judicial Services Rules, 1955 to the extent it prescribes the cut-off date of 1st August of preceding year in which the examination is held with minimum age limit of 22 years for appearing in the said examination as it is in violation of stand norms and stand minimum qualification needed to appear in



examinations of equivalent statuses being conducted throughout the country.

(iii) For issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus for a direction to the concerned Respondents specially the Respondent No.2 & 4 to accept the application form of the petitioner in relation to advertisement notification no. 04/2020 dated 09.03.2020 for appointment to the posts of subordinate judicial officers although the petitioner has not attained the minimum age required by the aforesaid advertisement notification on the ground that even though the petitioner is eligible for other competitive examination of equivalent standard. She has been debarred from appearing in the aforesaid examination and because this cut-off date is depriving many deserving many other candidates, but it is benefitting none.

(iv) For issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus for a direction to the concerned Respondents to allow the petitioner to appear and participate in the 31st Judicial Services Examination being conducted by the Bihar Public Service Commission till the final outcome of the present matter.



(v) For issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus for a mandatory injunction commanding the concerned Respondents to forthwith withdraw, rescind and/or cancel the impugned clause 3 of the advertisement notification no.04/2020 dated 09.03.2020 prescribing age limit further and to allow the petitioner to apply online against the said advertisement notification no.04/2020 dated 09.03.2020 and to accept the same till the final adjudication of the present matter.

(vi) For issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of Mandamus for a mandatory injunction commanding the concerned respondents to forthwith extend the last date of online filing of the application form which has been set till 12.09.2020 by the subsequent notification of advertisement notification no.04/2020 dated 09.03.2020.

(vii) For issuance of any other relief or relief(s) for which the petitioner is entitled for.”

3. Learned counsel for the petitioner submits that the main ground of challenge in the present writ petition relates to



Clause 6 of the advertisement notification and Rule 6 of the Bihar Judicial Services Recruitment Rules 1955, inter alia, laying down the criteria of cut-off of 22 years of age reckoned on 1st of August of the year preceding the year of examination.

4. Learned counsel for the petitioner fairly states however that the issue in question has since been decided in CWJC No. 8018 of 2020 (*Alok Anand Vs. The State of Bihar and others*) analogous with CWJC No.6188 of 2020 (*Prateek Srivastava Vs. The State of Bihar and others*) in terms of the judgment dated 06.11.2020 passed by this Court. In the said judgment, it has been held as follows--

*“34. Learned counsel for the petitioners have confined their argument with regard to observation made by the Hon’ble Supreme Court in paragraph no.32 of **All India Judges Association & Others vs. Union of India case** (supra), in which observation has been made with regard to removal of three years’ experience as a lawyer so that new Law Graduates could be attracted to be selected as Judicial Officers. The observation has been made by the Hon’ble Supreme Court in a different context and the Hon’ble Supreme Court has not dealt with the issue of minimum*



age limit to be fixed by the different State Governments. Different States have fixed different age limits according to their need but, that does not mean that fixation of minimum age limit by the State of Bihar is per se illegal as it depends upon different factors such as the landscape of the State, literacy rate as well as need of the society. Fixation of age lies in the realm of policy. The Court while exercising the power of judicial review would not take over that function itself. It is for the Rule Making Authority to discharge the function while framing the Rule.

35. *The submission of learned counsel for the petitioners that if a candidate can be enrolled as an advocate at the age of 21 years then why not a Law Graduate can enter into the Judicial Services at the age of 21 years. In our view, in that circumstances, some persons would come forward and say that why 22 years why not 20 year or 19 years that would not made it feasible and practical and at the same time the nature of job performed by an Advocate and a Judicial Officer are of different and distinct character which cannot be compared with each other.*



36. For the foregoing reasons, we do not find any merit in these writ petitions. Accordingly, both these writ petitions are dismissed.”

5. In the above view of the matter, learned counsel for the petitioner does not press the writ petition on merits.

6. The writ petition accordingly stands dismissed.

7. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

(Anjani Kumar Sharan, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.06.2021
Transmission Date	N/A

