

Amrendra Kumar Bharti

... .. Petitioner/s

Versus

The State Of Bihar and Ors.

... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Adv.
For the BSSC : Mr. Satyabir Bharti, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 01-12-2022

1. After the selection process is over, the petitioner

has turned around and challenged the select list on the ground that the selections were made solely on the basis of interview.

2. Learned counsel for the respondent states that the petitioner participated in the selection process but could not figure in the select list and after having been unsuccessful, he has challenged the same which cannot be allowed.

3. In **M.C.D. Vs. Surender Singh 2019 (8) SCC 67**,

the Hon'ble Supreme Court has held as under:-

“18. From a perusal of the said clause it is noticed that though under the very clause there are no cut-off marks specified, Clause 25 would, however, provide the full discretion to DSSB to fix the minimum qualifying marks for selection. In the instant case, keeping in view that the recruitment was for the post of Assistant Teacher (Primary) and also taking note of the orders passed by the High Court in an earlier petition requiring the maintenance of minimum standards, DSSB while preparing the select list had stopped the selection at a point which was indicated as the cut-off percentage. In a circumstance where Clause 25 was depicted in Advertisement No. 1/2006, when the private respondents herein



and the other petitioners before the High Court were responding to the said advertisement, if at all they had a grievance that the clause is arbitrary and might affect their right ultimately since no minimum marks that is to be obtained have been indicated therein, they were required to assail the same at that stage. On the other hand, despite being aware of the clause providing discretion to DSSB to fix the minimum qualifying marks, they have participated in the selection process by appearing for the qualifying examination without raising any protest. In that circumstance, the principle of approbate and reprobate would apply and the private respondents herein or any other candidate who participated in the process cannot be heard to complain in that regard.”

4. In view of the aforesaid law, the petitioner cannot be allowed to challenge the selection process after he has already participated in the same applying the principle of approbate and reprobate.

5. The writ petition is dismissed accordingly.

(Sanjeev Prakash Sharma, J)

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