

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7771 of 2022

1. Mukesh Kumar Nag, aged about 32 years, Son of Vinay Kumar, Resident of House No.83, Gadhpar, Charuipar, P.O.- Charuipar, P.S.-Noorsarai, District- Nalanda (Bihar).
2. Ashish Bharti aged about 27 years, Male, Son of Anand Bharti, Resident of Village- Muzafferpur, P.O.-Kathouli, P. S.-Noorsarai, District- Nalanda (Bihar).
3. Ravi Shekhar, aged about 28 years, Male, Son of Pappu, Resident of Bihar Colony, Mirganj, P.O.-Chowk Ara, P.S.-Arrah Town, District- Bhojpur at Arrah (Bihar).
4. Pancham Lal, aged about 33 years, Male Son of Ram Gobind Ram, Resident of Village-Bahiro Nawada, P.O.-Nawada Arrah, P.S.-Arrah Nawada, District- Bhojpur at Arrah (Bihar).
5. Vishnu Manish Kumar, aged about 23 years, Male, Son of Shyam Narayan Mandal, Resident of Village-Mahanth Nagar, P. O.-Katihar, P. S.-Katihar, District- Katihar (Bihar).
6. Ravi Ranjan, aged about 32 years, Male, Son of Ram Ashish Ram, Resident of Village-Koran Dihari Tola, P. O.-Peur P. S.-Sahar, District- Bhojpur at Arrah (Bihar).
7. Amrendra Kumar, aged about 35 years, Male, Son of Mitran Resident of Gorgamma, P.O.-Gorgamma, P.S.-Baunsi, District- Banka (Bihar).

... .. Petitioners

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Secretary, Minor Water Resources Department, Government of Bihar,



- Patna.
5. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 6. The Secretary, Building Construction Department, Government of Bihar, Patna.
 7. The Bihar Technical Service Commission through its Chairman, Government of Bihar, 19, Harding Road, Patna.
 8. The Chairman, Bihar Technical Service Commission, Government of Bihar, 19, Harding Road, Patna.
 9. The Secretary, Bihar Technical Service Commission, Government of Bihar, 19, Harding Road, Patna.
 10. The Deputy Secretary, Bihar Technical Service Commission, Government of Bihar, 19, Harding Road, Patna.
 11. The Director, All India Council for Technical Education, Government of India, New Delhi.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Nityanand Mishra, Advocate
For the Respondent- BTSC	:	Mr. Nikesh Kumar, Advocate
For the Intervenors	:	Mr. Sanjeet Kumar, with Mr. Ujjwal Bhushan, Advocates
For the State	:	Mr. Suman Kumar Jha, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 14-09-2022

Heard learned counsel for the petitioners, learned counsel for the State, learned counsel for the respondent- Bihar Technical Service Commission (for brevity 'the Commission') and learned counsel for the respondent- Intervenors.

2. Writ application has been filed for the following reliefs:-



“(i) For issuance of writ/writs in the nature of certiorari to quash and set aside the list of ineligible candidates as **'Raise Objection'** in respect to the petitioners which have been published through website of the Bihar Technical Service Commission, Patna (hereinafter referred as BTSC) as contained in Annexure-7 (Series) to this writ application, whereby and where under the candidature of the petitioners to the post of 'Junior Engineer (Mechanical)' for the final merit list/result for **Diploma in Mechanical Engineering specialization with 'Tool and Die Making'** vide Advertisement No.01/2019 published by the Deputy Secretary, Bihar Technical Service Commission, Patna have been **Disqualified: Diploma in Mechanical Engineering 'Ke Itar Koi Anya Samkaksh Shaikshanik Yogyata Manya Nahi Hone Ke Karan'**.

(ii) For issuance of writ/writs in the nature of mandamus directing/ commanding the respondents to consider the candidature of the petitioners to the post of 'Junior Engineer (Mechanical)' for the final merit list/result for **Diploma in Mechanical Engineering specialization with 'Tool and Die Making'** vide Advertisement No.01/2019 published by the Deputy Secretary, Bihar Technical Service Commission, Patna (hereinafter referred as BTSC) (Respondent No.10) dated 08.03.2019 as contained in Annexure-1 to this writ application.

(iii) For further directing/commanding the respondents concerned to consider the candidature of these Petitioners to the post of 'Junior Engineer (Mechanical)' for the Advertisement No.01/2019 issued by the Respondent No.10, though these Petitioners who duly applied and after filing of form and the acceptance of the form, have been shortlisted for the Counseling and appeared for the Counseling done and certificate of the petitioners also verified by the Respondent concerned in the same.

(iv) Further for directing/commanding the respondents especially respondent Nos.8 to 10 (BTSC) to consider the certificates of the petitioners nomenclature as **'Diploma in Tool and Die Making'** which is specialization course under the major discipline of 'Mechanical Engineering' as per **'All India Council for Technical Education Approval Process Handbook 2018-2019' Page No. 82,83,84,223,231 & 232 guideline** as required Academic eligibility to the post of 'Junior Engineer (Mechanical)' through the Advt. No.01/2019 published by BTSC.

(v) Further for directing/commanding the respondents especially respondent Nos.8 to 10 (BTSC) to consider the certificates of the petitioners nomenclature as



'Diploma in Tool and Die Making' which is specialization course under the major discipline of 'Mechanical Engineering' as per '**All India Council for Technical Education Approval Process Handbook 2018-2019**' Page No. 82,83,84,223,231 & 232 guideline in view of **Letter No.645 dated 04.04.2022** issued by the Secretary, Bihar Technical Service Commission, Patna (Respondent No.9) as contained in Annexure-8 to this writ application.

(vi) Further for granting stay/not to proceed with regard to selection process to the post of 'Junior Engineer (Civil/Mechanical/Electrical)' published vide Advertisement No.01/2019 dated 08.03.2019 by the Deputy Secretary, Bihar Technical Service Commission, Patna (Respondent No.10) as contained in Annexure-1 to this writ application till the final disposal of the instant writ application.

(vii) For further any other relief/reliefs, order/orders, direction/directions as your lordship may deem fit and proper in the facts and circumstances of this case for which the petitioners are entitled to in accordance with law."

3. The petitioners were applicants, pursuant to an Advertisement bearing No.01/2019, dated 08.03.2019, as contained in Annexure-1 to the writ petition, for making regular appointment against the post of Junior Engineer (Mechanical) by the Commission. The admitted position is that the petitioners were required to fulfill the eligibility criteria specified in Clause 2 (ग) (i) of the advertisement, which reads as follows:-

“2(ग) (i) कनीय अभियंता (यांत्रिक) :-

(i) अखिल भारतीय तकनीकी शिक्षा परिषद नई दिल्ली से मान्यता प्राप्त संस्थानों के यांत्रिक अभियंत्रण (Mechanical Engineering) के डिप्लोमाधारी जिन्हें संबंधित तकनीकी शिक्षा पर्वद / विश्वविद्यालय के द्वारा डिप्लोमा पाठ्यक्रम संचालित करने हेतु मंजूरी प्रदत्त हो / ”



4. The petitioners were allowed to participate in the selection process up-to-the level of counseling whereafter, they have been held to be disqualified, as they were not having a requisite Qualification of Diploma in Mechanical Engineering, or equivalent qualification.

5. The learned counsel for the petitioners submits that petitioners were having the requisite technical qualification and holds the certificate of 'Diploma in Tool and Die Making'. The photo copies of the certificate of Diploma held by the petitioners have been annexed as Annexure-2 series to the writ petition. The Diploma is approved by the All India Council For Technical Education, (for brevity 'A.I.C.T.E.') as it is manifest from perusal of the Certificate of Diploma itself.

6. It is further submitted that the petitioners had earlier served under the Executive Engineer, Public Health Engineering Division, Government of Bihar, Bhagalpur, as Junior Mechanical Engineer on contract basis on the strength of the same Certificate of Diploma, which he has produced in the process of selection. Since the petitioners were allowed to work based on this Certificate of Diploma qualification, on contractual basis, as Junior Mechanical Engineer, the Commission now cannot consider the Certificate of Diploma of petitioners to be ineligible for selection.



7. Based on the Certificate of Diploma, which the petitioners have submitted, they have been allowed to appear up till the stage of counseling and, therefore, the Commission is estopped from rejecting the petitioners' candidature by holding the Diploma to be a disqualification in the process of selection. The learned counsel has also referred to the handbook prepared by the A.I.C.T.E, relevant extract of which, has been placed on record as Annexure-3 series being '*All India Council for Technical Education Approval Process Handbook*' (AICTE Handbook 'for short'). The same contains a list of Diploma in Engineering and Technology wherein "Mechanical Engineering (Tool and Die)" is mentioned at serial 250. He has also emphasized the course name appearing at serial no. 343 which reads "Tool and Die Making". It is submitted that from the perusal of the handbook, it is apparent that the petitioners' Diploma in Tool and Die Making was duly approved and recognized by the A.I.C.T.E. and, therefore, the petitioners' Diploma could not have been held to be a disqualification in the process of selection.

8. The learned counsel for the Commission has drawn the attention of the Court towards the Advertisement bearing No. 01/2019, dated 08.03.2019, as contained in Annexure-1 to the writ petition. It is stated that the equivalent requisite Qualification as



per advertisement is Diploma in Mechanical Engineering. The petitioners do not have a Diploma in Mechanical Engineering and, therefore, they cannot claim to be possessing the requisite Technical Qualification. Insofar as “Mechanical Engineering (Tool and Die)” is concerned, he submits that same does find mention as an equivalent in the list of approved Diploma in Engineering and Technology as per A.I.C.T.E. Handbook. The petitioners do not possess the qualification of Diploma in Mechanical Engineering (Tool & Die), which is evident from a bare perusal of the Certificate of Diploma. Referring to Annexure-B of the counter affidavit, he has submitted that candidates who possessed this Diploma in Mechanical Engineering (Tool and Die) have been considered in the process of selection as having the requisite Technical Qualification.

9. The petitioners were neither having a Diploma in “Mechanical Engineering” nor a Diploma in “Mechanical Engineering (Tool and Die)”. Their Diploma is a Diploma in “Tool and Die Making” and, therefore, the same cannot be considered to be an equivalent in view of the clear stipulation in the Advertisement dated 08-03-2019. The petitioners cannot claim that their Diploma in “Tool and Die Making” may be allowed as a recognized Technical Qualification in terms of Advertisement



dated 08-03-2019 which are clear and explicit. The Commission cannot travel beyond the terms of the advertisement dated 08-03-2019, which is founded on the Rules under which the process of selection has been undertaken, namely, Bihar Water Resources Department Subordinate Engineer (Mechanical) Cadre Recruitment Rules-2015 (for brevity 'Rules of 2015'). The requisite Technical Qualification, under the advertisement, is strictly in accordance with these Rules of 2015 which is evident from the said Rules which has been annexed to the counter affidavit.

10. Considering the rival submission, this Court would find that the requisite Technical Qualification in unequivocal terms is Diploma in "Mechanical Engineering" or equivalent. The petitioners have a Diploma in "Tool and Die Making" and not Diploma in Mechanical Engineering, or its equivalent. From bare perusal of the AICTE Handbook, it is obvious that the petitioners' diploma in "Tool and Die Making" is not enlisted as equivalent of Mechanical Engineering in the list of the diploma in "Engineering and Technology". The other diplomas equivalent to Mechanical Engineering have been enlisted in the list of diploma in "Engineering and Technology" from serial numbers 240 to 258 and may be Sl. 260 also. The petitioners' diploma in "Tool and Die



Making” finds mention in a different list appearing at Sl. No. 343 as being one of the approved Diploma courses recognized by AICTE. The recognition by the AICTE is of the course as a diploma in “Tool and Die Making”, and does not confer any equivalence with diploma in “Mechanical Engineering”. The petitioners’ claim of equivalence of their diploma in “Tool and Die Making” with “Mechanical Engineering” is clearly unsustainable.

11. Petitioners’ do not fulfill the requisite Technical Qualifications, in terms of the Advertisement dated 08-03-2019, and therefore, are not in a position to invoke the writ jurisdiction of this Court for the relief prayed for.

12. The writ petition is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01-10-2022
Transmission Date	N/A

