

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9953 of 2020

=====

Md. Shamsher Son of Md. Sabir Hussain Resident of village- Lalpur, Rampur
Matihani, Police Station- Matihani, District- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department,
Directorate of Land Records and Survey, Govt. of Bihar
3. The Additional Secretary Revenue and Land Reforms Department,
Directorate of Land Records and Survey, Govt. of Bihar
4. The Director, Revenue and Land Reforms Department, Directorate of Land
Records and Survey, Govt. of Bihar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra
For the Respondent/s : Mr. Shailendra Kr. Diwedi, JC to AAG-12

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 01-07-2022

Today being Friday, matters are being taken up through
virtual mode as per current procedure for hearing.

Heard learned counsel for the petitioner and learned State
counsel.

An advertisement for appointment on the post of Special
Survey Amin was published by the respondents. The
advertisement Number is 01/2019. The petitioner has submitted
his application online under the procedure specified in the
advertisement.

The petitioner's grievance is that while entering his
educational qualifications online, he committed two mistakes.



The first mistake is that he has claimed his qualification to be issued by government institution. The second mistake that he has committed, is that he has claimed the qualification to be from a government institution in the State of Bihar.

The admitted position is that he has qualifications, but from a private institution, that also, in the State of Haryana.

It is, therefore, submitted by the petitioner's counsel that the petitioner being qualified in terms of the advertisement, could not have been disqualified or excluded from the process of selection based on such a mistake. It is submitted by Mr. Mishra who has appeared through virtual mode, that after the application was submitted online, an important notice was issued by the authorities on 25.05.2019, affording an opportunity to the applicants to cross-check certain details and in case of any mismatch, how the same was to be resolved.

Mr. Mishra further submits that respondents themselves had issued another notice inviting applications from the applicants for rectification of errors in the process of application. The same is dated 27.05.2019 (Annexure-8 to the writ petition).

Petitioner had responded to the said notices and brought the above mistake to the attention of the authorities for its



rectification. The same was not considered at that point and the authorities were of the view that this was an issue which was required to be considered at the time of counselling. This submission is based on Annexure-10 of the writ petition.

It is his submission that the authorities had granted two opportunities for rectification of errors and the petitioner, in the process, had responded to these opportunities and brought the mistake to the notice of authorities, still the petitioner's candidature has been rejected and the petitioner's application for correction of the errors has not been considered.

Several such issues arose in the process of selection and, therefore, the authorities by way of one notice dated 27.02.2020 again gave an opportunity to the applicants to make objections in relation to various advertisements issued by the Revenue and Land Reforms Department, Government of Bihar, including advertisement No. 01/2019 wherein the petitioner had participated.

Again the petitioner had submitted his objection in response to the said notice and it has been rejected, which is evident from the notice dated 21.05.2020 (Annexure-17). The consideration of the petitioner's objection is at serial no. 24, and reads as follows:



मो0 शमशेर	049199	विशेष सर्वेक्षण आमीन पद के लिए जारी सूची में College Category तथा State Name और Reject List में आ जाने के संबंध में ।	R-11	काउंसलिंग के समय आवेदक द्वारा अपने आवेदन में अंकित बिहार सरकार के पॉलिटेक्निक कॉलेज का प्रमाण पत्र ना दिखने के कारण आवेदन अस्वीकृत किया गया ।
-----------	--------	--	------	---

On his own volition, petitioner, has again made an application to the Additional Chief Secretary in the Revenue and Land Reforms Department, requesting that the inadvertent error committed by the petitioner in entering details of his educational qualification to be rectified.

It is submitted that since the posts are still vacant, the petitioner is qualified and has made his application for rectification within time, the authorities should have given the petitioner equitable and sympathetic consideration and allowed rectification of the petitioner's mistake and consider him in the



process of selection arising out of advertisement No. 01/2019.

The petitioner's counsel has placed reliance on a decision of Coordinate Bench of this Court in the case of ***Vimlesh Kumar vs. the State of Bihar & Ors.*** arising out of CWJC No. **7780 of 2020.**

The learned State counsel, on the other hand, has submitted that the advertisement contained a clear stipulation that application/forms, once finally submitted would not be subject to any correction or modification. He has referred to Clause 12 of the advertisement which reads as follows:

"12. www.irc.bih.nic.in पर Login करने के बाद नियोजन से संबंधित Link प्राप्त होने पर अभ्यर्थी सर्वप्रथम रजिस्ट्रेशन करेंगे। रजिस्ट्रेशन की प्रक्रिया पूर्ण होने के पश्चात् अभ्यर्थी के मोबाईल एवं ई-मेल पर आई.डी. एवं पासवर्ड प्राप्त होगा। उक्त आई.डी. एवं पासवर्ड के आधार पर अभ्यर्थी द्वारा Personal Details, Educational Details, Photo & Signature एवं Document upload की कार्यवाही की जा सकेगी। Online आवेदन पत्र के Submit करने के पहले अभ्यर्थी आश्वस्त हो लेंगे कि उनके द्वारा सभी अपेक्षित सूचनाओं को दर्ज कर दिया गया है। एकबार Application Form Final Submit करने के पश्चात् किसी भी परिस्थिति में | Application Form में सुधार / Edit का अवसर प्रदान नहीं किया जायेगा।"



Relying on this condition in the advertisement, the authorities have made categorical statement to this effect in paragraph 6 of the counter-affidavit. The same is not denied or disputed by the petitioner, even though he has filed the rejoinder dealing specifically with paragraph 6 of the counter-affidavit.

It is further submitted that the petitioner's plea that the authorities had granted opportunity for rectification of errors, but still have not accepted the petitioner's objection or claim for rectification of errors, is misplaced and unsustainable. There was a clear stipulation in the advertisement that no rectification or modification would be allowed in the details uploaded by the applicants on the online application form.

In so far as, notice dated 25.05.2019 is concerned, from bare perusal of the same, this Court would observe that the object and purport of the said notice is very specific. The same takes note of certain instances of mismatch which may arise in the name of a candidate with the name printed on the certificates which he has submitted in support of his claim.

The authorities were apparently conscious of the fact that some candidates may have changed their name. Another possibility was that on account of marriage being solemnized name/s of female candidates could have changed. Other



circumstances such as bonafide spelling mistake, inadvertent typing/printing etc. may have occurred in the testimonials being submitted by the candidates.

In view of the circumstances, there was likelihood of mismatch in the details entered by the candidates from the documents being produced. It is under these circumstances, the notice dated 25.05.2019 was issued. The same is evident from bare perusal of the notice, which is Annexure-11 series to the writ petition.

The petitioner has not claimed that there is a mismatch between the details entered by the petitioner and the documents being produced in support of his candidature, on such grounds as have been mentioned in the notice dated 25.05.2019.

In so far as the notice dated 27.05.2019 is concerned, the object and intent of the same is clear from bare reading of the notice by which the authorities gave an opportunity to the candidates to file objection in respect of the (i) list of applicants who submitted the final application, (ii) list of applicants who did not submit the final application, and (iii) list of applicants who were invited for counselling.

The petitioner is not objecting to these list/s uploaded by the respondent authorities.



The petitioner, in fact, had applied claiming his qualification (diploma) in Civil Engineering to be issued by a government institute in the State of Bihar. Whereas, he had acquired the qualification from Gyan Ganga Polytechnic, Salpani Khurd near Heenga Kheri, Jhansa Road, Kurukshetra, which comes under Haryana State Board of Technical Education. The said education is a private institution situated in the State of Haryana.

Petitioner, therefore, was seeking correction/modification of details which he had entered in his online application form. Such corrections/modifications were barred under the terms of advertisement, and the petitioner, therefore, cannot claim any right to such corrections/modifications.

On considering the rival submission, this Court is in agreement with the submissions advanced by the State counsel. But before concluding, the Court would take into consideration the decision relied upon by Mr. Mishra, learned counsel for the petitioner, in the case of ***Vimlesh Kumar*** (supra). The facts of the case are apparently different. In that case, objection/s were invited from the candidates, in case of any grievance, and an opportunity was given to them to file objection in respect of the requisite experience.



The petitioner, therein, had availed the opportunity, which was granted by the authorities, still his case was not being considered under such facts and circumstances, the Court had taken a view that the same requires consideration.

In the instant case there is a clear stipulation that correction/modification of details entered in the online application is not to be allowed. The petitioner, therefore, has no legal right to claim such modification/correction in the online application forms.

The petitioner's application, therefore, has rightly not been considered by the authorities. The petitioner had participated in the selection process based on the advertisement no. 01/2019 with open eyes without raising any objection to the terms of the advertisement, which clearly bars any correction/modification in the details entered by the candidates in the online application form. The petitioner, therefore, is bound by the terms of the advertisement, which uniformly applied to all the candidates. In fact, if the authorities were to allow such correction/modification contrary to the terms of the advertisement that would have been an illegality.

This Court would observe that there may be other candidates also who have not been considered on account of



such mistake having regard to the terms of the advertisement. Therefore, it is only in the interest of fairness in the selection process to maintain a uniform stand and not allow any correction/modification in the details entered in the online application, without any discrimination whatsoever.

The petitioner has no right to claim modification/correction of details entered in the online application.

Writ petition is dismissed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	19.07.2022
Transmission Date	NA

