

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.634 of 2021

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Dr. Mainul Haque Son of Mohammad Haque Residence of Village- Sarawe,
P.S.- Siwan Muffasil, District- Siwan, State- Bihar. At present posted as Ayush
Doctor (Ayurved), R.B.S.K. Govt. Primary Health Centre, Amdabad, Katihar,
Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
New Secretariat, Bihar, Patna.
2. The Registrar, Bihar State Ayurvedic and Unani Medicine Council, Patna.
3. The Chairman, Bihar Technical Service Commission, (BTSC), Patna.
4. The Secretary, Bihar Technical Service Commission, (BTSC), Patna.
5. The Examination Controller, Bihar Technical Service Commission, (BTSC),
19, Harding Road, Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Kant Kumar
For the Respondent/s : Mr. Pankaj Kumar, SC 12

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 17-01-2022

The matter is heard via video conferencing due to
circumstances prevailing on account of the COVID-19 pandemic.

2. Learned counsel for the petitioner is hereby directed
to furnish copy of the writ petition to the learned counsel for the
State-Commission.

3. In the instant petition, petitioner has prayed for the
following relief/reliefs:

“(A) To issue the Writ of Mandamus Commanding
the Respondents to Discharge there Legal Obligation to,
considered, the candidature of the Petitioner, who has GAMS
Degree Student and Registered as Ayush Surgeon bearing



Registration No. 6956 and Ayush Doctor Bearing Registration No. 1,30,551 on dated 13/11/1997 from the Bihar State Ayurvedic and Unani Council, Patna, under Bihar Ayurvedic and Unani Medicine Act, 1951. (Annexure – 1 Series), And on the Contract basis vide Recruitment Application, state Health Society, Bihar. Posted as Ayush Doctor (Ayurved), R.B.S.K. Govt. Primary Health Centre, Amdabad, Katihar, Bihar since 05/06/2015. (Annexure – 4 Series), but his Candidature be not considered by Respondents Authority in Advertisement No. 04/2020 to 09/2020 issue Notification by Signature of Respondent No. 4, The Secretary Bihar Technical Service Commission, (BTSC), Patna with ignorance to guide line of Hon'ble Apex Court Passed Reputable Judgement in Civil Appeal NO.4643 of 2003, Civil Appeal 4643 of 2003, Civil Appeal No. 4644-45 of 2003, and Civil Appeal No. 4646 of 2003 decided on November 1, 2003, (2007) 12SCC 728 (Annexure – 2), as well as circular of central Govt. / State Govt. about Relaxation of age and Degree. (Annexure – 3 Series).

(B) To issue the writ of mandamus, and directing to respondents authority to compliance with own resolution issued by Mr. Deepak Kumar, secretary government of Bihar vide memo no. 16/M/-1-67/2006-260 (Unani) Patna, dated 22/03/2007.

(C) To Stay the entire selection process being Advertisement No. 04/2020 to 09/2020 issue Notification by Signature of Respondent No. 4, The Secretary Bihar Technical Service Commission, (BTSC), Patna, (Annexure – 5), with ignorance to guide line of Hon'ble Apex Court as well as circular of central Govt. / State Govt. about Relaxation of age and Degree.

(D) To issue the writ of mandamus commanding the Respondents to discharge there legal obligation in the matter and given the opportunity to the Petitioner accordance with law and Provision of Laws.

(E) To Proper legal action against the such responsible Respondents which are involved in Such illegal, Manner to harass the Petitioners with so many corners.

(F) To any other Relief/s, order/s, Direction/s to Petitioners may be found Entitled to.”

4. In the absence of establishing legal/statutory right followed by demand before the competent authority, petitioner is



not entitled to writ of Mandamus in the light of Apex Court decision in the case of *Mani Subrat Jain V. State of Haryana* reported in **(1977) 1 SCC 486**.

5. Accordingly, writ petition stands disposed off as not maintainable.

6. The present order would not come in the way of submitting a detailed representation to the competent authority within a period of eight weeks from the date of receipt of this order. The competent authority is hereby directed to examine the grievance of the petitioner at the earliest.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	24.01.2022
Transmission Date	

