

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10926 of 2022

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Ram Bahadur Singh, (Male), aged about 26 years, son of Sri Surendra Singh
resident of village - Dharambaari, P.O. Safiabaad, P.S. Baikunthpur, District -
Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Department of Health, Government of Bihar, Patna.
4. The Director, Health Services, Government of Bihar, Patna.
5. Bihar Technical Service Commission, 19 Harding Road, Patna through its Secretary.
6. The Chairman, Bihar Technical Service Commission, 19 Harding Road, Patna.
7. The Secretary, Bihar Technical Service Commission, 19 Harding Road, Patna.
8. The Deputy Secretary, Bihar Technical Service Commission, 19 Harding Road, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Binodanand Mishra, Adv.
For the State	:	Mr.Nagendra Pd. Yadav, SC-23
For the Commission	:	Mr. Nikesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 17-11-2022 Heard learned counsel for the petitioner as well as learned
counsel for the State.

2. The petitioner's application has been treated as unreserved. He had applied for appointment as Ophthalmic Assistant claiming benefit of reservation under the Economically Weaker Section (EWS). The position is not in dispute that the advertisement required the certificate in support



of the reservation to be of a date prior to 05.05.2021, whereas the petitioner's certificate has been issued on 08.07.2021. It is this certificate which was submitted at the time of counselling.

3. The Petitioner's counsel, however, submits that for reasons beyond his control, the certificate could not be obtained prior to the cut-off date. It is submitted that he has requested the authorities with sufficient cause to show that it was not his fault that the certificate could not be issued prior to cut-off date.

4. Learned counsel for the respondent-Commission, however, submits that in view of the terms and conditions laid down in the advertisement, and since the petitioner was admittedly not having the certificate in support of his reservation prior to 05.05.2021, being the cut-off date prescribed, the authorities have no discretion to condone the same. The petitioner, therefore, has rightly been treated as unreserved category in terms of the advertisement itself.

5. Considering the rival submissions, this Court would agree with the submissions advanced by the learned counsel for the respondent-Commission. The law is clear that the process of selection is to be circumscribed by the terms and conditions in the rules under which the selection is being done, or the terms of advertisement so as to ensure non-arbitrary and non-



discretionary and fair selection process. The petitioner, admittedly, did not have the certificate prior to the cut off date prescribed in the advertisement, therefore, he can have no expectation, much less legitimate expectation that the certificate issued more than two months after the cut- off date can be accepted by the Commission in the process of selection. He has applied in response to the advertisement in accordance with the terms and conditions with open eyes. No case is made out for issuance of a writ to enforce a claim contrary to the terms and conditions governing the selection process.

6. Writ petition is accordingly dismissed.

(Madhuresh Prasad, J)

Raj kishore/-

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