

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20629 of 2021

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Lakhindra Kumar Son of Late Ram Ballam Bhagat Resident of Village-
Kutrum Kolhuua, PS- Saraiyeh, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Higher Education, Department of Education, Govt. of Bihar, Patna.
4. The Honble Chancellor of the Universities Governor House, Patna.
5. The Principal Secretary of the Governor, Governor s Secretariat Bihar, Raj Bhawan, Patna.
6. The Bihar State University Service Commission through its Secretary, 8th Floor Bihar School Examination Board Academic Building, Buddha Marg, Patna-1.
7. The Secretary Bihar State University Service Commission, 8th Floor Bihar School Examination Board Academic Building, Buddha Marg, Patna-1.
8. Sunil Kumar Singh, UDI No. SUN17021980 PRA0065856 through its Secretary Bihar State University Commission, Patna Since the details and address is not known to the petitioner.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishnu Kant Dubey, Adv.

For the Respondent/s : Mr. Pawan Kumar Choudhary, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

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| 2 | 14-10-2022 | 1. Heard the parties through video conferencing. |
| | | 2. The petitioner by way of this writ petition has prayed to quash the recommendations of selection of the respondent no.8 on the post of Assistant Professor, Prakrit and |

direct the respondents further to recommend the petitioner for appointment on the post of Assistant Professor or if the name be to take fresh interview and calculate the merit of the petitioner and thereafter appoint the petitioner.

3. Learned counsel for the petitioner submits that the respondent no.8 could not have been recommended for appointment as he had submitted his non-creamy layer certificate much later in point of time, and therefore, he could not have been considered for interview. He further submits that both the petitioner as well as the respondent were called for interview but the respondent Commission has favoured the private respondent, although the petitioner had much better educational qualification and he performed well in the interview. He, therefore, prays that he should have been selected and the candidature of the respondent no.8 ought to have been rejected/cancelled.

4. Learned counsel appearing for the Commission supports the action taken by the Commission and submits that the petitioner was not found fit for selection in the interview.

5. I have considered the submissions. I find that the main grounds of the petitioner is that he was better educationally qualified than the private respondent and he

should have been therefore selected and recommended in stead of the respondent no.8. The grievance with regard to the respondent no.8 having submitted his non creamy layer certificate later than the cut off date, has also been raised.

6. In the opinion of this Court, merely because the certificate of non-creamy layer has been submitted belatedly, the candidature of the concerned respondent could not have been rejected and rightly he was considered for interview as the status of a person does not change merely because the certificate has been received late by the respondent Commission. A reference may be made to the case of **Dolly Chhanda Vrs. Chairman, JEE, reported in (2005) 9 Supreme Court Cases 779.**

7. As regards the *interse* comparison between the petitioner as well as the respondent, it is to be best left for the Selecting Body to examine the candidature and how a candidate fares before the Interview Board has its own material effect. A person cannot select himself or choose himself to be the better candidate. This court does not have competence or infrastructure to assess *interse* merit between the petitioner and the respondent no.8. On the said count, no interference is warranted.

8. In view thereof, no case for interference is made out. The writ petition is devoid of merit and is accordingly

dismissed.

(Sanjeev Prakash Sharma, J)

amit/-
Item no.21

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