

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1633 of 2023

Vikash Anand, Son of Prabhunath Parvat, Resident of Village- Lohgajar
Mathiya, P.S.- Asaon, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Govt. of Bihar, Patna.
2. The Executive Director, State Health Society, Bihar (SHSB).
3. The Officer-in- Charge of Homi Bhabha Cancer Hospital and Research Centre, Shri Kirshna Medical College and Hospital Campus, Umanagar, Muzaffarpur (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Ramchandra Sahni, Advocate
For the State	:	Mr. Rajeev Ranjan, AC to GP-20
For State Health Society	:	Mr. K.K. Sinha, Advocate
		Mr. Shashi Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

- 2 22-06-2023
1. Heard learned counsels for the parties.
 2. The petitioner was an applicant for appointment to the post of “Cluster Coordinator” pursuant to an advertisement dated 14.10.2022 (Annexure-2), issued for appointment in the Homi Bhabha Cancer Hospital and Research Center, Muzaffarpur, Bihar.
 3. Referring to Annexure-3 to the writ petition, learned counsel for the petitioner submits that the petitioner was shortlisted for interview. His name finds place at Serial No. 33 in the list. The final selected list (Annexure-4) dated 11.11.2022, however, does not contains the petitioner’s name. Having



participated in the selection process, without raising any objection to the terms of advertisement, when the petitioner has emerged unsuccessful, he challenges certain terms of the advertisement. Petitioner has also alleged that a certain candidate was declared selected as Cluster Coordinator, though she had not appeared for the Interview.

4. Insofar as the terms of advertisement are concerned, this Court would observe that the petitioner has participated in the selection process without any objection whatsoever. Only when he was declared unselected/did not qualify, he is challenging the qualification contained in the advertisement. In view of the settled legal position, this Court would find that such conduct of the petitioner disentitles him to question the procedure or qualifications specified in the advertisement. This conclusion of the Court is relying upon decision of the Hon'ble Apex Court in the case of *Anupal Singh and Ors. vs. State of Uttar Pradesh and Ors.* reported in *(2020) 2 SCC 173*.

5. This Court also finds that petitioner has challenged the result of a selected candidate by name, jeopardising her interest, but she has not been impleaded in the writ petition. Without affording any opportunity to the effected



candidate, this Court is not inclined to exercise its extra ordinary and discretionary writ jurisdiction in favour of the petitioner in view of the settled legal position in this regard as per decision of the Hon'ble Apex Court in the case of ***Vishal Ashok Thorat and Ors. vs. Rajesh Shrirambapu Fate and Ors.*** reported in **(2020) 18 SCC 673**, relevant extract of paragraph-39 of which reads as follows:-

“39. Shri Naphade further submitted that by mere inclusion of the name in the select list, no right has accrued to the selected candidate for appointment. It may be true that by mere inclusion in the select list, there is no right of appointment but by inclusion in the select list the candidate is entitled for consideration for his appointment, which could not have been denied without there being any valid reason. Thus, we find force in the submission of the appellant that in the present case, the High Court could not have modified the select list without the selected candidates, whose interest was jeopardised by the High Court, being impleaded in the writ petition. Thus, directions issued [Rajesh v. State of Maharashtra, 2018 SCC OnLine Bom 17538] by the High Court in para 51 are not sustainable also in view of the fact that Respondent 1 had not impleaded the selected candidates in his writ petition.”

6. The writ application is accordingly dismissed.

(Madhuresh Prasad, J)

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