

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.129 of 2023

In

Civil Writ Jurisdiction Case No.10926 of 2022

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Ram Bahadur Singh son of Sri Surendra Singh resident of Village-
Dharambaari, P.O. Safiabaad, P.S. Baikunthpur, District- Gopalganj.

... .. Appellant/s

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.
9. Mr. Rajeev Ranjan, S/o Mr. Arun Kumar Singh, Posted at CHC, Lokahi, P.S. - Lokahi, Distt. - Madhubani.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Binodanand Mishra, Advocate
fro BTSC	:	Mr. Nilesh Kumar, Advocate
For the Intervenor	:	Mrs. Nivedita Nirvikar, Sr. Advocate
		Ms. Shashi Priya, Advocate
For the StAte	:	Mr. S.D. Yadav, AAG-9
		Mr. Anil Kumar Verma, AC to AAG-9

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY



ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-12-2023

The appellant is aggrieved with the fact that his candidature has not been considered under the Economically Weaker Section (for brevity “EWS”) for appointment as an Ophthalmic Assistant. The appellant had not submitted the certificate for considering him in the said category on 05.05.2021, when the certificates were to be submitted, which is also the last date for submission of application. The certificate itself is dated 08.07.2021. The counseling began on 10.12.2021 and continued till 16.12.2021. The appellant was denied consideration under the EWS only for the revision of certificate of EWS having not been submitted as on 05.05.2021.

2. Learned counsel for the appellant submits that Annexure-1 indicates by Clause 6 that the certificate had to be submitted only at the time of counseling and that the application only required intervention of the category in which he is applying. At the time of counseling he had the certificate, is the submission. The learned counsel would also rely on the decision in *Aarav Jain v. Bihar Public Service Commission; (2022) 14 SCC 35* and *Sri Sreerampa v. Karnataka Public Service*



Commission AIRONLINE; 1990 SC 206.

3. The learned Standing Counsel for the Bihar Technical Service Commission (BTSC) would submit that as from Annexure-5 instructions, the candidates were directed to file their certificates as on 05.05.2021. It is also clear that as on 05.05.2021, the certificate was not issued, since it is dated subsequent to that. The appellant had a contention that due to the death of the Circle Officer, the certificate could not be issued. However, the Circle Officer died one month after the cut-off date is the specific submission made by the learned counsel. Learned Senior Counsel appearing for the additional respondent, who is the last candidate appointed under the EWS also submits that the appointments at this point cannot be upset.

4. We do not find any declaration of law from ***Sri Sreerampa*** (*supra*) which only directed the appellant therein to be accommodated in an existing vacancy or in a future vacancy. In so far as ***Aarav Jain*** (*supra*) is concerned, we specifically refer to Paragraph 8 which is as below:

8. It would be worthwhile to mention here that as per the conditions mentioned in the advertisement for any government employment, there is always a clause that in the certificate/testimonies, if information furnished by any candidate is found to be incorrect at a later stage, during any enquiry, the candidature for such



candidates is liable to be cancelled. It is not the case of the respondent that any of these certificates referred to in the decision dated 27-11-2019 have been found to be incorrect. It is only this technical ground of not producing the original certificate at the time of the interview that the candidature of these appellants had been rejected even though they had scored higher marks in their respective category from the marks obtained by the last selected candidate.

5. Hence, as on the date of the interview, there was a certificate in existence and the candidates had also produced the self attested certificates before the interview board. It was in such circumstance that the aforesaid decision was rendered.

6. In the present case, specifically the instructions indicate as seen from Annexure-5 that the certificate has to be submitted as on 05.05.2021 and no certificate after the cut-off date will be accepted. In fact, in Paragraph 6 of Annexure-1 what is stated is that the original certificate should be submitted at the time of counseling. The applications were to be submitted online and the accompanying certificate are also to be submitted online; which cannot be in the original since it can only be those uploaded along with the application. It is hence the stipulation that the original certificate should be produced at the time of counseling, for verification.

7. In the aforesaid context, we do not find any reason



to entertain the appeal of the appellant and the same stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Anushka/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	11 .12.2023
Transmission Date	

