

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11810 of 2023

1. Nishant Kumar Son of late Ram Briksh Das Resident of Village Hajpurwa, P.S. Jurawanpur, District- Vaishali.
2. Ganesh Kumar, Son of Sri Kanhai Ram Resident of Village Kunjawan, P.O. Kunjawan, District- Patna.
3. Abodh Kumar, Son of Sri Lakshmi Sharmna Resident of Village Matadih, P.S. Darhara, District- Munger.
4. Rajesh Kumar, Son of Sri Ram Shresth Thakur Resident of Village Jagdish Kamtaul, P.S. Kudhani, District- Muzaffarpur.
5. Varun Kumar, Son of Sri Sheo Prasad Mistry Resident of Village Simrikala, P.S.- Kutumba, District- Aurangabad.
6. Subodh Kumar Jain, Son of Sri Nathuni Mahto Resident of Village and P.O.- Jitwarpur Chouth, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Labour Resources Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Labour Resources Department, Govt. of Bihar, Patna.
3. The Deputy Secretary, Labour Resources Department, Govt. of Bihar, Patna.
4. The Director, Directorate of Employment and Training, Labour Resources Department, Govt. of Bihar, Patna.
5. The Deputy Director, Directorate of Employment and Training, Labour Resources Department, Govt. of Bihar, Patna.
6. Bihar Technical Service Commission, Patna through its Chairman, 19, Harding Road, Patna.
7. The Deputy Secretary, Bihar Technical Service Commission, 19, Harding Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s	:	Ms. Bandana Singh, AC to SC- 21
For the Commission	:	Mr. Nikesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

2 05-09-2023 1. The matter has been taken up today on motion



being made for urgent listing.

2. Heard learned counsel for the petitioners and learned counsel for the State as well as respondent-Commission.

3. By the instant writ petition, the petitioners have sought quashing of an advertisement No. 23/2023 dated 28-6-2023, whereby applications were invited from candidates desirous for participating in the process of selection for the purpose of Trade Instructor in "Electronics Mechanics".

4. The requisite educational qualification reads as follows:

"(i) शैक्षणिक अर्हता:- Mechanic Electronics/Electronics Mechanic व्यवसाय में राष्ट्रीय शिक्षता प्रमाण-पत्र या राष्ट्रीय व्यवसाय प्रमाण-पत्र ।"

5. Admittedly the petitioners do not possess this requisite educational qualification. They claim to be having certificate in "Mechanics Radio & TV" trade. They also claim to be working in different Industrial Training Institutes (ITI) under the Labour Resource Department on contract basis as Mechanics Radio & TV trade instructors since the year 2009. It is their assertion that in the year 2015, units of 13 trades underwent a transformation. The "Mechanics Radio & TV" trade was converted/changed to "Mechanics Electronics".

6. The State Government, in light of the aforesaid



change conducted a Recognition of Prior Learning (RPL) Exam in "Mechanics Electronics" trade and the petitioners successfully passed the examination. They were thus granted a National Craft Instructor Certificate. The same was declared to be equivalent to one year regular certificate course under Craftsman Instructor Training Scheme (CITS), by the Government of India, under its letter dated 26-7-2019 (Annexure-P/6).

7. It is also the petitioners' case that the Bihar Industrial Training Cadre Rules, 2018 (hereinafter referred to as "2018 Rules") was promulgated under Article 309 of the Constitution of India. Under the 2018 Rules, recruitment is to be made on the recommendation of the Commission based on a written examination. Out of two posts of instructors in every trade, one is to be for degree/diploma in engineering certificate holder and one for National Apprenticeship Certificate/National Trade Certificate (NTC/NAC) holder of the concerned trade. One year certificate course under CITS is a preferential qualification as per rules.

8. As per the impugned advertisement, the requisite educational qualification for appointment as instructor in the trade of electronics mechanics is National Apprenticeship



Certificate/National Trade Certificate in mechanics electronics/electronics mechanics trade.

9. The petitioners' claimed qualification of a national trade certificate or state trade certificate in "Mechanics Radio & TV" trade is excluded, though it is "almost similar", as per petitioners' assertion made in paragraph 14 of the writ petition, to that of "Mechanics Electronics" trade. The petitioners' grievance is that even though their qualification is almost similar, they had been excluded and therefore they have sought quashing of the advertisement.

10. Learned counsel for the respondent-Commission submits that it is not the case of the petitioners that the requisite educational qualification in the advertisement is not in terms of the Rules, under which the recruitment is being made. So their claim for equivalence by alleging that the syllabus of "Mechanic Radio & TV" is almost similar to "Mechanics Electronics" cannot be made the basis of holding them to be eligible. The advertisement does not stipulate an equivalence clause to "Mechanics Electronics". The clear stipulation is of having NTC/NAC in Mechanics-Electronics/Electronics Mechanics only. The petitioners therefore cannot claim the quashing of the advertisement on any grounds.



11. Considering the rival submissions and based on averments made in the writ petition, this Court finds that the requisite educational qualification in the advertisement stipulates that candidates are required to have National Apprenticeship Certificate/National Trade Certificate in Mechanics Electronics/Electronics Mechanics Trade. It does not stipulate or permit any other equivalent educational qualification. The prescription is specific and does not have any equivalence clause and therefore, assertion that the petitioners' qualification of "Mechanics Radio & TV" is almost similar in syllabus to that of "Mechanics Electronics", cannot be made the basis to hold that the petitioners' qualification is equivalent and to allow them to assert discrimination against the requisite qualification specified in the impugned advertisement.

12. It is also evident from the pleadings in the writ petition that the requisite qualification is in terms of Rules, which Rules has not been assailed by the petitioners.

13. This Court therefore finds that the petitioners have not been able to make out any case to assail the advertisement No. 23/2023 dated 28-06-2023.

14. This Court would also take note of the fact that the last date for filling up of application forms lapsed long back, i.e,



on 3-8-2023. The petition was filed after the last date, ie., on 4-8-2023.

15. The writ application is thus found to be devoid of merit and dismissed.

(Madhuresh Prasad, J)

Raj kishore/Sumit-

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