

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.940 of 2019
In
Civil Writ Jurisdiction Case No.17072 of 2015

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1. Manoj Kumar S/o anand Lal Resident of Mohalla New Damariya, West of Kabristan, P.o- Anisabad, P.s.- Gardanibagh, Distt.- Patna
 2. Ram Murat Singh S/o Shri Prama Singh Vill. and P.o.- Ashok Nagar, P.s.- Jalalur, Distt.- Chapra at Saran
 3. Md. Shahanshah Azam S/o Md. Azim Uddin Vill.- Bichali Aran, P.o.- Sohsarai, P.s.- Sohsarai Town Bihar Sharif, Distt.- Nalanda

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary General Administration Department, Govt. of Bihar, Patna
3. The Registrar General High Court of Judicature at Patna
4. The Registrar (Administration) High Court of Judicature at Patna
5. The Chairman Convener Coordination Committee-cum-District and Sessions Judge, Patna
6. The District and Sessions Judge Rohtas at Sasaram
7. The District and Sessions Judge Saran at Chapra
8. The In-Charge Administration, Rohtas, Sasaram
9. The In-Charge Administration, Saran at Chapra

... .. Respondent/s

with
Letters Patent Appeal No. 923 of 2019
In
Civil Writ Jurisdiction Case No.17588 of 2015

1. Vijay Kumar Son of Shri Baikunth singh Resident of Village-Shahri, Police Station - Ben, District Nalanda, Bihar Sharif
2. Bipin Bihari Singh Son of Yogendra Prasad Singh R/o Village-Maulana Bigha, Post office Onda, Police Station Sare, District Nalanda, Bihar Sharif

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary General Administration Department, Government of Bihar, Patna
3. The Registrar General High Court of Judicature at Patna
4. The Registrar (Administration) High Court of Judicature at Patna
5. The Chairman Convenor Coordination Committee-cum-District and Sessions Judge, Patna



6. The District and Sessions Judge Bihar Sharif, Nalanda
7. The In-Charge Administration, Bihar Sharif, Nalanda

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 940 of 2019)

For the Appellant/s : Mr. Arvind Kumar Sharma

For the Respondent/s : Mr. Prabhat Kumar Verma (Aag3)

(In Letters Patent Appeal No. 923 of 2019)

For the Appellant/s : Mr. Arvind Kumar Sharma

For the Respondent/s : Mr. Prabhat Kumar Verma (Aag3)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 02-01-2023

In these two LPAs the appellants Manoj Kumar and Vijay Kumar have assailed the order of the learned Single Judge passed in CWJC No. 17072 of 2015 and CWJC No. 17588 of 2015 dated 18.07.2019.

Pursuant to the advertisement for the post of Hindi Stenographer the appellants were candidates and they were selected and appointed. Appellant-Vijay Kumar was permitted to join service on 14.08.2015 and his services were terminated on 17.09.2015. However, Manoj Kumar was not permitted to join service in other words before joining service pursuant to the order of appointment to the post of Hindi Stenographer order of selection and appointment were cancelled.

Feeling aggrieved by the decisions of the respondents both the appellants preferred CWJC No. 17072 of 2015. Learned



Single Judge upheld the decision of the respondent insofar as cancellation of selection and appointment to the post of Hindi Stenographer. Sole reason for cancellation of their selection and appointment is that they had certificate of Sahitya Alankar awarded by Hindi Vidyapeetha, Deoghar. Such qualification could be equated to that of degree or equivalent to graduation or not?

Respondents are of the view that in terms of the High Court decision dated 02.07.2013 that the certificate of Sahitya Alankar awarded by Hindi Vidhayapeetha, Deoghar was not recognized for qualification for appointment to the post of Class-III in Civil Courts. Before taking impugned action against the appellants, the appellants have not been heard in the matter for the reasons that their right to selection and appointment to the post of Hindi Stenographer has already crystallized with reference to selection and issuance of order of appointment in that context they are entitled to have notice before cancellation of their selection and appointment to the post of Hindi Stenographer such a notice was not issued by the official respondents. Therefore, on the ground of violation of principle of natural justice the impugned action of the respondents were liable to be set aside.

It is to be noted that learned Single Judge has relied on Rule 9 (6) of The Bihar Civil Courts Staff (Class-III and Class-IV)



Rules, 2009. Even reading of Rule 9 (6) it does not prohibit for issuance of show cause notice. It is to be noted that any adverse action taken against a person he must be heard in that matter. This court in the case of **Rajesh Kumar vs. State of Bihar** reported in **2019 5 BLJ 558** held that termination is in violation of principle of natural justice. The learned Single Judge has committed error in not noticing that appellants have not been provided an opportunity of hearing before cancellation of their selection and appointment to the post of Hindi Stenographer.

Apex Court in the case of **Esteem Properties Pvt. Ltd vs. Chetan Kamble** reported in **2022 (4) Scale 284** it is held that importance of natural justice and an opportunity of hearing to be afforded to the affected party in any administrative or quasi-judicial proceedings. The aforementioned decision is aptly applicable to the case in hand.

In the light of these facts and circumstances the appellants have made out a *prima facie* case so as to interfere with the impugned order of learned Single Judge as well as decision of the authorities dated 31.08.2015 Annexure-5.

Accordingly, they are set aside. The matter is remanded to the concerned official respondents to issue a detailed show cause notice as to why the selection and appointment shall not be



cancelled in the light of the fact that qualification acquired by the petitioners is not equivalent to that of degree or graduation. If such notice is issued thereafter the appellants were permitted to file their explanation with reference to any material information to establish that Sahitya Alankar issued by Hindi Vidyapeetha, Deoghar is equivalent to that of graduation.

Ordinarily declaration of equivalency of qualification is vested with the State Governments or University. If the appellants have any material information to establish that educational qualification acquired by them is equivalent to that of graduation the same shall be placed before the competent authority. The competent authority is hereby directed to take note of appellants explanation along with documents, if any, produced and proceed to consider and pass a speaking order and communicate to the respective parties. The above exercise shall be completed within a period of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

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