

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.705 of 2021

In
Civil Writ Jurisdiction Case No.9904 of 2021

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Amit Prakash Son of Rajesh Kumar, Resident of Village-Simra Paraspatti,
Ward No. 28, P.S.-Dumra, District-Sitamarhi.

... .. 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, Science and Technology Department, Government of Bihar, Patna.
4. The Secretary, Science and Technology Department, Government of Bihar, Patna.
5. The District Magistrate, Sitamarhi.
6. The Bihar Public Service Commission through its Chairman, 15, Jawaharlal Nehru Marg, Bailey Road, Patna.
7. The Chairman, Bihar Public Service Commission, Bihar, Patna.
8. The Secretary, Bihar Public Service Commission, Bihar, Patna.
9. The Additional Secretary-cum-Examination Controller, Bihar Public Service Commission, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Jagjit Roshan, Adv.
For the State	:	Mr. Sanjeet Kumar Singh, AC to AAG6
For the BPSC	:	Mr. Sanjay Pandey, Adv.
		Mr. Nishant Kr. Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and

HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 24-01-2023

Heard Mr. Jagjit Roshan, learned advocate for
the appellant and Mr. Sanjay Pandey for the BPSC. The
State is represented by Mr. Sanjeet Kumar Singh.



The writ application preferred by the appellant for being granted the benefit of horizontal reservation of 2% for being the grand child of a freedom fighter was rejected.

Hence this appeal.

An advertisement had been issued in the year 2017 for filling up 963 posts of Assistant Engineers (Civil) under different Departments in the Government of Bihar.

The advertisement with respect to the number of vacancies was changed from time to time but, in the advertisement, it had been notified that any person/candidate who wished to take advantage of the policy of the Government to grant 2% horizontal reservation for his being a family member/grandchild on of a freedom fighter would be required to furnish such certificate along with the application form. Without such certificate, the appellant had applied but, was allowed to appear in the preliminary examination which he passed. Thereafter, a date was fixed for main written examination where also the candidates were required to furnish such



certificate, if they intended to take advantage of the same. The appellant qualified and was also called for interview. Separate batches of interviews were held. In the communication notifying the date of interview, it was specifically stated by the Commission that for any person to rely upon such resolution of the Government to grant horizontal reservation of 2% for being a family member of the freedom fighter, the certificate had to be produced latest at the time of interview.

At the time of interview also, the appellant did not possesses such certificate for which he sought further time.

It is the contention of the appellant that no communication was made to him with respect to his request for postponement of the interview or the requirement of furnishing the requisite certificate.

The appellant obtained the certificate on 19.03.2021 which he had furnished but, the same was not taken into account when the final result was published on 14.07.2021.



It is the contention of the appellant that the learned Single Judge did not take into account that many similarly situated persons were granted time on the date of their interview for furnishing the certificate.

However, during course of argument, it transpired that some of the persons were definitely given some time and the interview dates for them had been postponed but, there is nothing on record to indicate that such postponement in cases of others was for the purpose of procuring or furnishing such succession certificate, entitling such candidate for a horizontal reservation.

Mr. Jagjit Singh Roshan, learned advocate, as a last limb of his argument, has submitted that the status of the appellant as a grandchild of a freedom fighter remained inviolate and, therefore, the Commission was not justified in not taking note of it when a special request was made for postponement of interview.

However, we find that the appellant had applied for grant of such certificate only in the year 2021.



Mr. Roshan however explains this by saying that the certificate had been obtained by him in the year 2018 only but, the same was lost for which a station diary entry was also got recorded by the petitioner.

Be that as it may, the factual situation today is that the appellant had furnished such certificate much after the entire process of filling up the post till the date of interview had been completed. No instance could be cited by the appellant before us to indicate that the interview date of similarly situated person, claiming to be a grandchild of the freedom fighter, who did not possess the certificate at time of interview were was granted any postponement of the interview for them.

Lastly, it has been submitted that till date, one post reserved is still vacant and therefore, the Commission may re-consider the claim of the appellant.

Mr. Sanjay Pandey, learned advocate for the Commission has candidly stated that the entire process is over and all the posts are filled.



Thus, we find that we are possessed with no reason whatsoever for differing with the order passed by the learned Single Judge.

The appeal fails but, without any order as to costs.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

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