

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18442 of 2022

Vikram Anurag, son of Birender Kumar, Resident of Gayatri Beauti Parlour,
Mamta Hotel, G.D. College Road, Meerganj, Dist- Begusarai, State- Bihar-
851101.

... .. Petitioner/s

Versus

1. The Chairman, The Bihar Public Service Commission 15, Jawahar Lal Nehru Marg (Bailey Road), Patna-800001.
2. The Joint Secretary cum Examination Controller, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg (Bailey Road), Patna-800 001.
3. The Secretary, University Grants Commission (UGC) Bahadur Shah Zafar Marg New Delhi-110002.
4. Office of the Vice-Chancellor, Vice Regal Lodge, University of Delhi, Delhi-110007.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vikram Anurag (In Person)
For the BPSC	:	Mr. Sanjay Pandey, Advocate
	:	Mr. Nishant Kumar Jha, Advocate
For the Respondent No.3:	:	Mr. Amarendra Nath Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 19-04-2023

We have heard Mr. Vikram Anurag (in person), Mr. Sanjay Pandey, learned counsel for the Bihar Public Service Commission and Mr. Amarendra Nath Verma, learned counsel for the UGC.

2. The petitioner, who was a candidate of 31st Bihar Judicial Services Competitive Examination, has challenged the part of the result



published by the Bihar Public Service Commission (hereinafter called 'the Commission') wherein the candidature of the petitioner has been rejected on the ground that he has made a wrong disclosure, while registering himself for depositing fee and making online application for being considered for appointment to the post of Civil Judge (Junior Division).

3. What has been gleaned from the record, it is evident that the advertisement issued by the Commission clearly specified that an aspirant was required to annex the certificates of the institution regarding his having passed the LL.B examination. However, while clarifying the aforementioned requirement, stipulation was made in the aforesaid advertisement that at the time of interview, production of original certificate was mandatory, failing which it would put a cloud on the candidature of such candidate and, in that event, the decision of the Commission shall be final.

4. The advertisement further stipulated



that with respect to basic academic qualification making any candidate eligible for appearing in such examination, the certificate/mark-sheet of law or equivalent degree must be produced along with the on-line application form, the last date of filing such application form being 13.04.2020.

5. Clause 7 of the aforementioned advertisement further provides the time-line for registration; for depositing fee; and for filing on-line application forms. The dates of registering oneself; of depositing fee and of filing on-line application form was extended by way of issuing important notice and finally the last date for registration was fixed on 31.08.2020; for depositing of fee to 05.09.2020 and for filing on-line application form to 12.09.2020.

6. The petitioner had obtained the degree of law from Campus Law Centre, Delhi University on 16.12.2020 i.e. much latter to the last date of filling up the on-line application form. Needless to say that the last date for filing on-line application form was fixed on 12.09.2020.



7. The candidature of the petitioner was rejected by the Commission on the ground that while registering oneself, it was necessary for a candidate to declare that he had the requisite qualification for appearing in the 31st Bihar Judicial Services Competitive Examination, which necessitated a degree of law from the recognized University.

8. On the last date for registration and even on the date for filing on-line application form, admittedly the petitioner did not have a law degree. Nonetheless, he had appeared in the examination and was expecting his result but the certificate from Delhi University came to him only on 16.12.2020.

9. Mr. Sanjay Pandey, learned counsel for the Commission has contended that a bare reading of the terms of the advertisement makes it very clear that the conditions stipulated therein have been made mandatory which could not have been derogated in any manner, specially when it has been culled out from the records that the



petitioner has not even obtained his eligibility qualification with the time limit provided under the advertisement. It was also urged by Mr. Pandey that it has been provided in the advertisement that in the academic certificate regarding eligibility must be of a date, anterior to the date when registration is to be made by the candidate, but in the case in hand the petitioner had obtained the valid law degree after more than three months of the last date for filing on-line application. Thus, he further submitted that even if it is assumed that the petitioner had obtained LL.B certificate from a recognized University but the statement in the registration form about his eligibility is quite incorrect. Had he made a correct disclosure while registering himself a candidate, his candidature would have been rejected in the first instance, as he would not have been eligible at the threshold. He next submitted that because of the nation wise Covid-19 Pandemic, the dates for registration; for depositing fee prior to filing of the online application form were extended but, the



requirement under the advertisement that the candidate must have been obtained certificate prior to the date when registration was made, remained the same.

10. The petitioner, on the other hand, has submitted that the insistence of the Commission on such technicality was highly unwarranted. In the circumstances, where on account of delayed conduct of the examination due to Covid-19 Pandemic and lock down, delay has occurred in publication of the result, which was beyond his control, however, he gave his declaration on the application form that he holds the educational qualification for the post advertised by the Commission. He further submitted that identical situation was created with some candidates appearing for Civil Services Mains examination in the year 2020-21 wherein in absence of having valid degree at the time of filing of main application, the candidatures were cancelled in terms of Clause 7 of the notification which provided that the proof of passing the



requisite examination should be declared within due date. The candidates being aggrieved approached before the Hon'ble Supreme Court in Writ Petition(s) Civil No.408 of 2021 and the Hon'ble Supreme Court considering the extraordinary and unparallel situation on account of on-set of Covid-19 Pandemic allowed the candidates to appear in the interview. It has been clarified that the observation made by the Hon'ble Supreme Court shall not be treated as precedent.

11. Other instances have also been shown by the petitioner in order to impress upon this Court that it is not the case of the petitioner having made any wrong representation with respect to his eligibility, but what has gone against him is that the certificate was granted by the University after the date of registration and filing of the online form.

12. While concluding his submission, he next submitted that he has been allowed to appear in the preliminary, mains (written examination) and interview and having been performed well in



all the three stages, now he cannot be thrown out on pure technical grounds.

13. We have given anxious consideration to the submissions made on behalf of the parties and in order to ascertain as to whether the petitioner is otherwise qualified for being considered, asked the Commission to apprise this Court about the marks of the petitioner obtained under his respective category.

14. As requested, it has been informed to this Court that the petitioner belongs to Extremely Backward Class Category for which 47 posts were earmarked and he secured 436 marks against the cut off marks for EBC being 447. At this juncture, submissions has been made on behalf of the petitioner that let a direction be given to the Commission to produce the checklist of the marks obtained by him in the Preliminary, Mains (written examination) and Interview in order to counter the genuineness of the submissions made on behalf of the Commission.

15. This Court had the occasion to see



the mark-sheets of the candidates in an identical case of candidates of 31st Bihar Judicial Services Competitive Examination in C.W.J.C. No. 15325 of 2022 and another analogous case and as such the Court has no doubt in accepting the submissions of the learned counsel for the Commission. However, it is needless to observe that if the petitioner wants to verify his mark-sheet he has remedy under the Right to Information Act and this Court is not the proper forum for the same.

16. This Court is also conscious of the legal position that the prescription in the prospectus/ advertisement form that the requisite certificate be annexed along with the application form within a particular date is only directory and not mandatory, as it is a sure mode but not the sole means of testing the eligibility and filtering the candidates. Thus the principle “equity overpowers technicality where human justice is on stake” could only be applicable, if the candidate is otherwise secured more marks than other candidates, but this is not the position herein.



17. Considering the aforementioned facts, specially the marks obtained by the petitioner and the petitioner was not having the qualification of LL.B at the date and time of registration and for filing online application form, there is no reason or occasion to interfere in the present writ application.

18. Accordingly, the writ application, sans any merit, stands dismissed.

(Harish Kumar, J)

(Ashutosh Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
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