

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1155 of 2020

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Ravikant Kumar Satyarthi Son of Nalin Kumar, resident of 131 B Satyam
Enclave, LIGDDA, Flats, Jhilmil, P.S. Vivek Vihar, District East Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Patna, through its Chairman.
3. The Chairman, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Patna.
4. The Joint Secretary cum Controller of Examinations, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan Dwivedi, Adv.
For the BPSC	:	Mr. Sanjay Pandey, Adv.
For the Respondent/State	:	Md. Nadim Seraj (Gp5)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

4 21-02-2023 Heard Mr. Prabhat Ranjan Dwivedi, the learned

counsel for the petitioner and Mr. Sanjay Pandey, the

learned counsel for the Bihar Public Service Commission

(hereinafter referred to as 'BPSC'). The State is



represented by Md. Nadim Seraj, the learned Government Pleader.

The petitioner had appeared in the 30th Bihar Judicial Competitive Examination against Advertisement No. 06 of 2018, as he had all the qualification for appearing in such examination.

The petitioner claims to have been working as an Assistant Public Prosecutor under the Government of National Capital Territory of Delhi under its directorate of prosecution.

The petitioner having been successful in the written examination was called for interview in which, he appeared but his candidature has been cancelled on the ground that he did not furnish the "No Objection Certificate" from his employer at the time of interview.

The learned counsel for the petitioner has submitted that in the advertisement against which the examination process was conducted, there was no such requirement. The only requirement under the



advertisement was to furnish necessary documents regarding academic qualification and certification by Bar Council of India as also of the Principal of Institute from where the degree has been obtained.

This condition was mandatory as it was couched in necessary terms that in the absence of such document, the application shall not be entertained.

After the written examination was over, interview schedule was published and in that schedule, all the candidates who were called for interview were asked to bring "No Objection Certificate" of their employers, in case they were under the employment of any Government, Central or State.

This requirement, it has been urged, was brought midstream and therefore, every clause of it cannot be insisted upon as a mandatory requirement.

Mr. Dwivedi has further argued that even if it is not treated to be a change in the scheme of the examination midstream, the requirement of bringing



such "No Objection Certificate" from the employer at the time of interview was not mandatory and it could have been obtained later as well, if there was no doubt about the academic qualification and the eligibility of a candidate.

The first of the argument of Mr. Dwivedi is not acceptable for the reason that the requirement of bringing "No Objection Certificate" from the employer at the time of interview was under a scheme framed by the BPSC for interview only. This requirement cannot be read as changing the examination process or any basic condition. This was only meant for successful candidates in the written examination.

However, there is force in the submission of Mr. Dwivedi that such requirement cannot be read as mandatory requirement for the petitioner to have been shut out totally and his result be not published on that score exclusively.

Mr. Sanjay Pandey, the learned Advocate for



the BPSC, however, contended that if such a requirement has been put down in the scheme of interview which was made known to all such successful candidates who were to appear in the interview much in advance, it amounted to a necessary and mandatory condition, whatever be the caprisioning words may have been employed for intimating such requirement. He further submits that there is a further stipulation in the scheme which is that no further time would be given for bringing necessary documents as indicated in this scheme and that in the absence of such documents, the Commission shall have the authority to take a decision in that regard.

We have gone through the condition put forth in the scheme of the interview which clearly states that a candidate must bring with him the "No Objection Certificate" from his employer, in case he is employed with the Central or the State Government.

In the absence of any stipulation to the



contrary that if such certificate is not brought, the entire candidature shall be cancelled, such requirement cannot be considered to be a mandatory requirement especially in view of the candidate having been found to be eligible for appearing in the examination and his having become successful later in the written examination.

Nonetheless, since the entire examination process is over, we requested Mr. Pandey, the learned Advocate for the BPSC to inquire about the marks obtained by the petitioner to ascertain whether he has obtained higher marks than the last of the successful candidate in his category, which is the BC category.

The Commission's Office intimated to Mr. Pandey that for the BC category, the cut off marks was 480, whereas, the petitioner has obtained only 458 marks.

This concludes the issue for the reason that even if such requirement in the scheme of the interview is not taken to be mandatory, the petitioner otherwise



would not have qualified for being appointed on the post
of a Judicial Officer.

However, we do acknowledge the contention of
the petitioner that his result ought to have been
published and his candidature should not have been
totally done away with for not having complied with the
condition which cannot be termed to be mandatory.

The writ petition stands disposed off
accordingly.

(Ashutosh Kumar, J)

(Harish Kumar, J)

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