

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1211 of 2024

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Shashi Kumar S/o- Anil Kumar Resident of Shiv Bazar, P.S.- Bhagwan Bazar,
District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Law Secretary, Law Department, Bihar,
Patna.
2. The Law Secretary, Law Department, Govt. of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government
of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nawal Singh, Advocate
For the Respondent/s : Mr. P.K. Shahi, Advocate General

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

Date : 02-05-2024

An Advocate seeks to challenge Rule-6(3) of the Bihar Law Officers (Commitment) rules, 2023 and also seeks a direction to the respondents to consider the petitioner's application for appointment as an Additional Public Prosecutor in the District Court of Saran.



2. Admittedly, the petitioner does not comply with the conditions prescribed in Rule-6(3) of the Bihar Law Officers (Commitment) Rules, 2023 and hence he is not qualified.

3. We find the challenge to be misconceived and untenable. The engagement of a Government Advocate or a Public Prosecutor is the prerogative of the Government and it is just like any other engagement of a Counsel by a litigant. The State is the most prolific litigant in every court and it is only natural that; we presume they would engage the best talent available. It is for the State as an authority by itself and as a litigant, to prescribe such conditions for appointment, as a Government Advocate, which is prescribed under the above Rules so as to have transparency in appointment and also since the appointees are paid out of public funds. The prescription insofar as filing of ITR for the last three consecutive financial years cannot be said to be arbitrary or illegal.

4. Mr. P.K. Shahi, learned Advocate General who had appeared on behalf of the State also pointed out that that there is no income limit prescribed. The factum of a tax return filed and the income generated from the profession is one of the parameters on which the competence of an Advocate insofar his experience could be evaluated.



5. We also do not find any way to direct the State to appoint one or another as a Government Advocate or a Public Prosecutor.

6. For all the above reasons, we find ourselves unable to entertain the writ petition and dismiss the same *in limine*.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
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