

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5012 of 2020

Dilip Lal, Son of Hari Lal, Resident of Village - Raitar, Police Station-
Giriyak, District- Nalanda at Biharsharif.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Rural Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Rural Department, Government of Bihar, Patna.
3. The Director, (Sa. Ba.), Rural Development Department, Government of Bihar, Patna.
4. The District Magistrate, Nalanda at Biharsharif.
5. The Deputy Development Commissioner, Nalanda at Biharsharif.
6. The Deputy Development Commissioner, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
For the Respondent/s : Mr. Anjani Kumar (AAG-4)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 29-03-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for directing the respondent-authorities to appoint the petitioner against the post of Bare Food Technician (for short 'B.F.T.') with all consequential benefits attached to the post.

3. Learned counsel for the petitioner submits that the petitioner is the citizen of India and under the scheme of Mahatma Gandhi National Rural Employment Guarantee Act (for short 'MGNREGA'), the State Government decided to implement right to employment under the said provisions by creating different post at the different level and in continuation



thereof, the post of B.F.T. has also been created to assist in technical works to the Engineers while measuring the earth-cutting among the job card holder the MGNREGA scheme. Counsel further submits that post of B.F.T. has been created at the block level scheme of MGNREGA, but as per the decision of the State Government, they were used to depute at the Panchayat level so as to prevent and check the extortion labours having job cards. Counsel also submits that the petitioner being the job card holder since 2008-09, applied for the post of B.F.T. within prescribed time period and the written examination has been conducted in the month of November, 2016. The center of the petitioner was Nalanda College at Biharsharif where he appeared in the written examination and thereafter, a merit list was prepared, in which the petitioner has obtained sky-scattering marks i.e. 82% (annexed as Annexure-1).

4. Learned counsel for the petitioner submits that name of the petitioner is figured at serial no.31 in Giriyak Block, but the respondent-authorities discriminated in sending the candidates to the subsequent training centre by ignoring rightful claim of the petitioner, though the less meritorious candidates than the petitioner were sent for the training. Counsel also submits that respondent-authorities had prepared a list of 17 candidates who had been sent for training, but the name of the



petitioner was deliberately left out without any rhyme or reason. Counsel further submits that in the year 2018, another list was prepared and the department have issued a letter in which guidelines relating to appointment of training of B.F.T. has been mentioned. Counsel also submits that the petitioner possesses requisite qualification and finally select the candidates but, the petitioner has been discriminated by not appointing him in complete illegal and arbitrary way. Counsel submits that being aggrieved and dissatisfied with the decision of the respondent-authorities, the petitioner has filed the present writ petition. Counsel submits that counter affidavit has been filed and in paragraph no.7 of the counter affidavit, it has been admitted by the respondent-authorities in the counter affidavit that the petitioner belongs to Giriyak Block in the district of Nalanda where 08 candidates (05 male + 03 female) were qualified for the post of B.F.T. against requirement of 03 seats, initially out of them, 02 B.F.T. including the one belonging to the member of S.C and one from the category of the female were nominated for training. However, one selected by the department concerned female candidate failed to join training. Therefore, 02 B.F.T. candidates from Giriyak Block remained to be selected for training and as per the Guidelines, 14 B.F.T. female candidates were required from the district for training, but there was only



09 female B.F.T. candidates were available in the list, so remaining 02 female candidates belonging to Giriyak Block were selected for training by the department concerned. Under this circumstance, the petitioner even after securing highest marks in Giriyak Block, could not be selected for training.

5. Learned counsel for the State submits that a letter No.94/C dated 04.10.2016 (annexed as Annexure-A) is the reason for non consideration of the case. Counsel submits that at the District level, 50% male and 50% female has to be selected finally and due to this reason, the case of the petitioner has been ignored.

6. Upon hearing the parties and going through the arguments as well as the documents available on record, particularly Annexure-A on which the counsel for the State relying, the said conditions has to be fulfilled in two terms i.e. firstly, from each block, 03 male and 03 female has to be selected as per the eligibility and representation has to be made to the S.C and S.T candidates and then only at district level, 50% male and 50% female shall be selected finally.

7. In this background, this Court of the view that it is the direction of the Rural Development Department, Government of Bihar, Patna that primarily, 03 male and 03 female has to be necessarily selected as per the eligibility and



after their selection, the maintenance has to be made being 50% male and 50% female. It is nowhere mentioned that the candidate who is meritorious shall be ignored. By non consideration of the petitioner, the respondent-authorities has ignored the meritorious candidate which is the best.

8. As such, this Court directs The Deputy Development Commissioner, Nalanda at Bihar Sharif (respondent no.5) to select the petitioner within 90 days from the date of production of the order, as petitioner being the best candidate. It is also directed that maintaining the second clause, respondent no.5 is directed to consider the merit under the same category.

9. Since the general elections of Lok Sabha, 2024 has been notified, the counting of the said 90 days shall be started from the end of the general elections of Lok Sabha, 2024.

10. With the aforesaid observations and directions, this writ petition is hereby disposed off.

(Dr. Anshuman, J.)

Divyansh/-

U			
---	--	--	--

