

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5577 of 2023

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Madhupriya D/o- Shailendra Kumar Resident of Village- Rasoolpur, P.S.-
Suryagadha, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. Chairman, Bihar Technical Service Commission, Patna.
4. Secretary, Bihar Technical Service Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madhusudan Rai, Advocate
For the B.T.S.C.	:	Mr. Mukesh Kumar, Advocate
For the Respondent/s	:	Mr. Nagendra Pd. Yadav, SC 23
		Ms. Vijaya Laxmi Srivastava, AC to SC 23

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 19-06-2024 The petitioner applied for the post of Tutor Nursing scheduled to be recruited by the Bihar Technical Service Commission. It is the case of the petitioner that she not only passed B.Sc. Nursing, but also passed M.Sc. Nursing and submitted her marksheet along with the application form. As per the advertisement, the petitioner is supposed to be granted 15 marks being passed M.Sc. Nursing. However, petitioner's marksheet of M.Sc. examination were not considered and she was not awarded 15 marks which she entitled to get having being passed M.Sc. in Nursing.

2. According to the petitioner, rejection of her



candidature for the post of Tutor, Nursing by the respondent authorities was arbitrary and *mala fide*. Due process of law was not maintained and accordingly, the said decision is liable to be quashed.

3. The learned Advocate appearing on behalf of the petitioner submits to the tune of the case made out by the petitioner in her petition under Article 226 of the Constitution. In support of his contention, she also refers to a decision of the Hon'ble Supreme Court in *Dolly Chhanda v. Chairman, JEE*, reported in *(2005) 9 SCC 779*

4. The learned counsel appearing on behalf of the respondents no. 03 and 04 first takes me to the Advertisement No. 01/2022 being the advertisement for recruitment of Tutor, Nursing. He refers to Rule 8 of the said advertisement where it is clearly stipulated that all the documents relating to qualification, viz, academic qualification, reservation certificate, certificate with regard to work experience issued on or before 23rd February 2022 filed by the candidates shall be accepted. Next, he takes me to page no. 29 of the writ petition whereby the Principal of Brite College of Nursing issued a course completion certificate on 07.02.2022 in the name of the petitioner, stating, *inter alia*, that she had undergone two years



M.Sc. Nursing programme in Community Health Nursing Specialty from 01st September 2018 to 31st July 2021. According to the learned Advocate appearing on behalf of the Commission, this certificate is a course completion certificate that the candidate passed M.Sc. in Nursing. He also refers to a certificate dated 02nd June 2022 conferring M.Sc. degree to the petitioner. Thus, it is submitted by him that the petitioner obtained M.Sc. passed certificate after 23rd February 2022 and the Commission rightly refused to consider the said certificate as the certificate was issued long after 23rd February 2022. In support of his contention, the learned Advocate appearing on behalf of the Commission refers to an unreported decision of this Court passed in ***LPA No. 129 of 2023 (Ram Bahadur Singh vs. State of Bihar and Others, decided on 07th December 2023)***. In the above mentioned decision, the Division Bench of this Court on similar facts and circumstances refused to entertain the appeal because of the fact that the reservation certificate submitted after the cut-off date was not accepted by the recruiting authority.

5. The learned Advocate for the State has adopted the submission submitted by the learned Advocate appearing on behalf of the Commission, having heard the learned Advocates



appearing on behalf of the parties and on careful perusal of Rule 8 of the recruitment notification, this Court finds that a candidate requires to prove his academic qualification and other documents issued on or before 23rd February 2022. The petitioner issued two marksheet of first M.Sc. and second M.Sc. dated 14th October 2020 and 02nd September 2021 where, it is clearly mentioned that the petitioner passed both the examination and finally passed in first class. In Rule 8 of the Recruitment notice, petitioner was not directed to file M.Sc. certificate, she was directed to file documents relating to academic qualifications (शैक्षणिक योग्यता) on the date of filing of the application. The respondent authorities had the knowledge that the petitioner passed M.Sc. Nursing. The respondent authorities did not consider the marksheets of the petitioner which dis-entitled her to qualify for the post of Tutor Nursing.

6. In view of such circumstances, the instant writ petition is allowed on contest, however without cost. The respondent authorities especially respondents no. 03 and 04 are directed to consider the candidature of the petitioner in the post of Tutor, Nursing and if, it is found that she is entitled to be appointed as per her qualification. The authorities are directed to



pass necessary orders accordingly.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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