

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.902 of 2023**

**In**  
**Civil Writ Jurisdiction Case No.10824 of 2022**

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Abhishek Kumar, S/o Lalan Roy, R/o Darihara Chatarbhuji, P.O. - Darihara,  
P.S. - Sonapur, District- Saran.

... .. Appellant/s

Versus

1. The Union of India through Secretary, Ministry of Defence, New Delhi.
2. The Director General, Indian Coast Guard, New Delhi.
3. The Deputy Director General (Recruitment) Indian Coast Guard, Noida,  
Uttar Pradesh.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|------------------------------------------------------------|
| For the Appellant/s  | : | Mr. Praveen Ranjan, Advocate                               |
| For the Respondent/s | : | Mr. Awadhesh Kumar Pandey, Sr. CGC<br>Mr. Lokesh, Advocate |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)**

**Date : 20-03-2024**

Heard the parties.

2. The challenge in the present Letters Patent Appeal is made to an order of this Court dated 30.11.2022 passed by the learned Single Judge in C.W.J.C. No. 10824 of 2022, whereby the claim of the writ petitioner to condone the mistake/mismatch of his father's name stood rejected.

3. It is contended by the learned counsel for the writ petitioner-appellant herein that in response to the advertisement for the post of Navik (General Duty), the writ



petitioner submitted his application on 08.01.2022 under the category of OBC (Non-creamy layer). On verification of the document, admit card was issued for Stage-I examination by the Directorate of Recruitment Indian Coast Guard. The petitioner having been declared successful at the Stage-I written examination shortlisted for Stage-II (physical test); and further on being declared successful, had been directed to upload the documents/ OBC certificate and accordingly the same has been done. However, after proper verification of the documents, the Directorate of Recruitment, Indian Coast Guard has published the Stage-II result, but despite being declared as successful, the petitioner was declared failed in document verification and not selected for Stage-III examination.

4. Learned counsel for the petitioner-appellant further contended that the petitioner has not been selected only on the ground of mistake/mismatch of Surname of his father, as Lalan Roy. Aggrieved, the petitioner-appellant preferred C.W.J.C. No. 10824 of 2022 with categorical contention that the mistake was a trivial mistake and in consequence the same should be ignored for the reason that the petitioner's identity with reference to his father's name could have been asserted during verification at the later stage of selection process by the



authority issuing the certificate or if the petitioner could have been given chance to explain the facts, he would have certainly satisfied the authority or a fresh certificate produced from a competent authority.

5. The aforesaid contention of the petitioner-appellant came to be negated by the learned Single Judge in view of the submissions made by the learned Counsel for the Union of India with reference to the terms and conditions of the advertisement and general instruction issued for filling up of application forms. The terms and conditions of the advertisement specifically warrants strict diligence in filling up of application forms with a categorical stipulation that if the name of the candidate in the application is not as per the educational certificate/voter I.D. card or the caste certificate, it would lead to rejection of the candidature during document verification.

6. The learned Single Judge while rejecting the claim of the petitioner has also observed that if this Court were to direct that such mistake be ignored then a candidate who has not committed any such mistake in the process of selection would now be required to make way to accommodate the petitioner which would be a totally inequitable circumstance.



7. The petitioner being dissatisfied assailed the order of the learned Single Judge contending that the petitioner has filed application form by giving correct name of his father duly matched with the name, as has been mentioned in the OBC certificate issued by the Government Official in Hindi 'Roy' is written as Rai or Ray. Adverting to the aforesaid facts, learned counsel further argued that it was a trivial mistake, which has occurred due to spelling error. However, the learned Single Judge has not examined the issue involved in the right perspective and the writ petitioner has not been allowed a chance to clarify the position. Heavy reliance has been placed on a decision of the Hon'ble Supreme Court in the case of **Vashist Narayan Kumar Vs. The State of Bihar & Ors., reported in (2024) 1 SCR 1** where the Hon'ble Supreme Court held that on the peculiar facts and circumstances of the case, the error in the date of birth of a candidate cannot be said that it was so grave as to constitute wrong and misleading information.

8. Referring to the legal maxim, "de minimis non curat", the Court said that there is an exception for trivial errors or omissions as law does not concern itself with trifles. Thus, taking note of the facts of the case it was held that the appellant derived no advantage as even if either of the date of birth were



taken, he would be eligible and the error had no bearing on the selection process.

9. Learned counsel for the Union of India referring to the observations made by the learned Single Judge has submitted that the candidates were duly informed and sensitized to adhere with the terms and conditions of the advertisement. Further, general instructions were also issued to the candidates giving examples of such mismatch, as has occurred in the instant case, to be one of the common reasons for rejection of the petitioner's candidature. Thus, in such background, submitted that in view of the admitted mistake/mismatch in petitioner's father name, the rejection of the candidature of the petitioner-appellant under the terms of Advertisement and general instructions, the claim of the petitioner to ignore the mismatch/ mistake, as the same being trivial, is not at all sustainable in law as well as on fact. Moreover the selection process is already over and in no case the petitioner could be accommodated in place of a candidate, who has not committed such mistake, as was observed by the learned Single Judge.

10. Having carefully heard the parties and after perusal of the terms and condition of the advertisement and general instructions, indubitably the advertisement as produced



in Annexure-2 to the writ petition, specially the clause deals with the document verification at stage-II specifically points out that all the information provided in the Online application has to match with all the original documents like grade X/XII/ Diploma marks-sheet/photo identity card, caste certificate, individual subject and aggregate marks. Any inconsistency in the documents and application with respect to “Name, Date of birth, Parent’s name, percentage of marks, validity of documents, Caste certificate details etc.” will lead to failure in document verification and the candidature will be cancelled. Similar Clause for document verification is also made at Stage-III that in case of any inconsistency in the name, date of birth, parent’s name, as noted hereinabove, will lead to cancellation of candidature.

11. From the reading of the aforesaid terms and condition, no discretion is left with the authority to ignore any mistake or mismatch of the particulars mentioned in the application form, qua the particulars mentioned in the certificates. This Court also cannot ignore the fact that other successful candidates of Stage-II have been allowed to appear in Stage-III examination/test and on being found successful, the selection process came to an end after their appointment on



respective posts. Thus, at this stage, it would not be equitable to re-visit the matter, as reconsideration of the case of the petitioner would necessarily lead to exit of a candidate, in whose selection no mistake or any wrong has been found. The learned Single Judge while concluding the order/judgment has rightly observed that if the Court was to direct that such mistake be ignored then a candidate who has not committed any such mistake in the process of selection would now be required to make way to accommodate the petitioner which would be a totally inequitable circumstance.

12. Now coming to the decision of the Hon'ble Supreme Court in the case of **Vashist Narayan Kumar** (supra) this Court would observe that the facts of the said case is different from that of the facts of the present case. In the case in hand, the writ petitioner has not appeared in Stage-III examination on account of cancellation of his candidature after finding discrepancy in the name of his father and this Court has been informed that the selection process is over and the appointment has already been made. No direction could be given in a situation where it is not the case of the petitioner that still the posts are vacant. Further this Court is not oblivious of the fact that the order in the case of **Vashist Narayan Kumar**



(supra) has been passed by the Hon’ble Supreme Court in exercise of powers under Article 142 of the Constitution of India for the ends of justice, which power is not available to the High Court.

13. In view of the discussions made hereinabove, this Court does not find any error in the order/judgment passed by the learned Single Judge.

14. The appeal sans any merit, stands dismissed.

**(K. Vinod Chandran, CJ)**

**(Harish Kumar, J)**

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