

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.698 of 2024
In
Civil Writ Jurisdiction Case No.8611 of 2022

1. The Bihar State University Service Commission having its office on 8th Floor, Bihar School Examination Board, Administrative Building, Budha Marg, Patna, Bihar- 800001, through the Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Administrative Building, Budha Marg, Patna, Bihar- 800001.
2. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Administrative Building, Budha Marg, Patna, Bihar- 800001
3. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Administrative Building, Budha Marg, Patna, Bihar- 800001.

... .. Appellant/s

Versus

1. Anurag Kumar Sinha @ Anurag Ambasta Son of Sri Gyan Chand Prasad, Resident of Wills Land, Thakurbari Road, Kadamkuan, P.S. and P.O. Kadamkuan, District- Patna.
2. Mala Kumari Upadhyay, Wife of Sri Jeevan Prakash Tripathi, Resident of House No. 298/3, Adarsh Nagar Colony, Road No. 8, Narsariganj, Digha, P.S. and P.O. Narsariganj, District- Patna, Bihar.
3. Niharika Kumari, Wife of Sri Rakesh Ranjan Resident of P/s, Vidhyapuri Professors Colony, Kankarbagh, P.S. and P.O. Kankarbagh, District- Patna, Bihar.
4. The Aryabhatta Knowledge University, Gyan Parisar, Mithanpur, Patna through the Vice Chancellor, Aryabhatta Knowledge University, Gyan Parisar, Mithapur, Patna.
5. The Vice Chancellor, Aryabhatta knowledge University, Gyan Parisar, Mithapur, Patna.
6. The Registrar, Aryabhatta knowledge University, Gyan Parisar, Mithapur, Patna.

... .. Respondent/s



Appearance :

For the Appellant/s : Mr. P.K.Shahi, Sr. Advocate
Mr.Harsh Singh, Advocate
For the Respondent/s : Mr.Piyush Lall, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-10-2024

Re.: Interlocutory Application No. 1 of 2024

There is 29 days delay in filing the appeal.

2. Having gone through the affidavit, we are convinced that there is sufficient reason shown for condonation of delay.

3. Delay is condoned.

4. I.A. No. 1 of 2024 stands disposed of.

Re. L.P.A.No. 698 of 2024

The appellant is the Commission, who is aggrieved with the order of the learned Single Judge, which directed consideration of the case of the petitioners, which was found to be similar to the decision of a Co-ordinate Bench in CWJC No. 4952 of 2022 dated 23.02.2023.

2. Shri P.K.Shahi, learned Senior Counsel appearing for the appellant-Commission, would specifically refer to the decision in LPA No. 653 of 2024, titled as *The Bihar State*



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dated 06.09.2024, where a similar issue was considered and the prayer declined.

3. Shri Piyush Lall, learned Counsel appearing for the respondents-writ petitioners, however, would distinguish the judgment in LPA No. 653 of 2024.

4. It is pointed out that therein the submission of the dismissal of the prayer of the petitioners for acceptance of a delayed submission of experience certificate with due counter signature of the Registrar of the respondent-University, was declined, more for reason of the petitioners therein having not taken any positive steps in getting a counter signature. In the present case, the writ petitioners had approached the respondent-University, but their prayer was declined because of the policy decision, which was challenged in CWJC No. 4952 of 2022. Later on, even before the challenge was considered in CWJC No. 4952 of 2022, the University had responded to the request made by the petitioners and issued a certificate of experience with counter signature of the Registrar on 06.08.2021, which was submitted to the Commission on 11.08.2021. In the above circumstances, learned Counsel for the petitioners submits that the petitioners have a better case than



that projected; but rejected in LPA No. 653 of 2024. The learned Counsel would rely on *Charles K. Skaria v. Dr. C. Mathew, (1980) 2 SCC 752*.

5. Admittedly, the last date for submission of the application was 10.12.2020. The last date for online submission of application was extended to 10.12.2020 from 02.11.2020, as stipulated in the advertisement. The last date for submission of hard copy of the application online was also on 13.12.2020. This Court in LPA No. 653 of 2024 found that submission of a certificate long after the last date prescribed, cannot be reckoned for the purpose of considering the candidature of a person for selection and appointment.

6. In the present case also, there is nothing to indicate that the petitioners had made an application prior to the last date prescribed i.e. 10.12.2020; for the purpose of getting an experience certificate with due counter signature by the Registrar of the University. The fact remains that a certificate with counter signature was issued only on 06.08.2021 and the same would not inure to the benefit to the petitioners since the last date had already expired. We find absolutely no distinction from the case as argued in LPA No. 653 of 2024 and rejected by another Division Bench.



7. The learned Counsel for the petitioners has relied on ***Charles K. Skaria*** (supra) based on the specific averment in the writ petition that all the petitioners had submitted experience certificates; but without a counter signature of the Registrar of the University, as is stated in Paragraph-9 of the writ petition.

8. We have perused the judgment relied on by the learned Counsel for the petitioners. Therein, *inter alia*, the challenge was against the admission of students, based on the marks awarded to persons who obtained a diploma before the last date for application; which possession of diploma had a weightage insofar as the admission to the course. The challenge in the writ petition was to the communication issued by the Special Secretary to the Government, permitting 10% weightage for those persons who had carried out the diploma course in the Medical College, Trivandrum, even if they produce a diploma certificate before finalising the selection to post-graduate courses; whereas the prospectus provided that the certificates should be evidencing such possession of diploma as on the last date of application. The Full Bench of the High Court found the communication issued by the Special Secretary to be illegal.

9. The Hon'ble Supreme Court held that the diploma holders, who are eligible to the weightage, were those who



possess the diploma at least by the final date for making application. A candidate can be said to have obtained a diploma when he has done all that he has to do and the result of it is officially made known by the concerned authority. Insofar as a candidate; as an examinee, he should complete his examination; written, oral or practical, and the result should also be announced before the date of application. If the result is so announced before the selection, it was held that the added advantage of diploma would inure to an applicant for a post-graduate degree only if (a) he has completed the diploma examination on or before the last date for the application, (b) the result of the examination is also published before that date, and (c) the candidate's success in the diploma course is brought to the knowledge of the Selection Committee, before completion of selection in an authentic or acceptable manner.

10. We are of the opinion that in the present case, such knowledge in an authentic or acceptable manner was not brought before the Selection Committee by the certificate produced along with the application. Further, the prospectus clearly indicated that experience would be counted only if a certificate is produced, which has the counter signature of the Registrar of the University. The petitioners do not have a



contention that any attempt was made to obtain such a counter signature. The petitioners merely furnished a certificate of experience obtained from the college, without counter signature and produced a proper certificate far later to the closure date of application. We find absolutely no reason to direct the applications filed by the petitioners to be entertained.

11. We find the writ petition to be devoid of merit. The judgment in CWJC No. 4952 of 2022 has no application since therein, the petitioners diligently followed up the refusal of the Registrar to affix a counter-signature on the experience certificate, as per the declared policy of the University; which policy was declared to be faulted. The decision of the Co-ordinate bench in LPA No. 653 of 2024 squarely applies. We set aside the order of the learned Single Judge. The present appeal stands allowed.

12. Interlocutory application, if any, shall stand closed.

(K. Vinod Chandran, CJ)

Sujit/-

(Partha Sarthy, J)

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.10.2024
Transmission Date	

