

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.777 of 2024**

**In**  
**Civil Writ Jurisdiction Case No.10851 of 2024**

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1. Bihar State University Service Commission through the Secretary, 8th Floor, Bihar School Examination, Academic Building, Budh Marg, Patna.
  2. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination, Academic Building, Budh Marg, Patna.

... .. Appellant/s

Versus

Alka Kumari wife of Amit Ranjan, Resident of Road No. 7, Rajiv Nagar,  
Police Station- Rajiv Nagar, District- Patna.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Tuhin Shankar, Advocate  
For the Respondent/s : Mr. Sarva Deo Singh, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 02-12-2024**

The Bihar State University Service Commission has filed the appeal from the order of the learned Single Judge. The controversy raised in the writ petition was with respect to the cancellation of the writ petitioner's candidature to the post of Assistant Professor (Mathematics); to which she had applied under Annexure-P/1 notification, on the ground that she had not paid sufficient application fees.

2. The writ petitioner, a woman candidate, paid Rs. 75/-; the reduced fees applicable to women having permanent



domicile within the State of Bihar. While, as an unreserved candidate, without permanent domicile, she had to pay Rs. 300/-. The learned Single Judge found that the decision of the Commission is legally perfect, but still exercised equitable jurisdiction by directing her participation in the interview after paying the application fee of Rs.300/- within 24.07.2024.

3. We heard Mr. Tuhin Shankar, learned Council appearing for the appellant and Mr. Sarv Deo Singh, who appeared for the respondent; who had also appeared for the writ petitioner in the writ petition.

4. Annexure-P/1 notification was issued on 21.09.2020 and the candidates were required to file their online applications, between 02.11.2020 and 10.12.2020 and upload the documents which substantiate their eligibility as to the qualification, as also their candidature. Admittedly, as noticed by the learning Single Judge, the online application fee prescribed for the unreserved categories was Rs. 300/-, which was relaxed for SC/ST candidates of Bihar, women candidates having permanent domicile in Bihar and for the physically disabled to Rs. 75/-. Even with respect to the other candidates, who did not fall under any of the relaxed categories, had to pay an application fees of Rs. 300/-. The petitioner was an



unreserved candidate who paid only an application fee of Rs. 75/-. It was in such circumstances that the petitioner's candidature was disqualified.

5. Learned Counsel for the appellant clearly pointed out from the writ petition and the documents produced therein that the petitioner did not produce any domicile certificate along with the application and subsequently, when the disability was intimated to the petitioner, the petitioner had produced two certificates which are produced along with Annexure-P/4.

6. The certificate dated 26.12.2020 showed only temporary residence within the State of Bihar and the subsequently issued certificate dated 08.03.2022; which is also enclosed along with Annexure-P/4 indicated permanent residence within the State of Bihar. We are of the opinion that the two certificates raise a suspicion about the domicile of the petitioner-respondent and in any event both the certificates could not have been produced along with the application, since the last date for application was 10.12.2020.

7. Learned Counsel for the respondent-petitioner, however, vigorously pointed out the application form and Column 2 (ii) wherein she has stated that she is a permanent resident of Bihar and also uploaded the residence proof. We



cannot find Annexure-P/2, indicating any uploading of the residence proof. If at all the same was uploaded, the petitioner ought to have produced the uploaded certificate to substantiate her claim.

8. Learned counsel for the respondent sought for a week's time to produce it. We were not inclined to grant such time, especially since it was the duty of the petitioner-respondent to produce a copy of the uploaded certificate; if at all it was uploaded along with the writ petition. We also notice that the specific contention taken by the petitioner in Paragraph-7 is as follows:

*‘ That the petitioner belongs to general category and as per advertisement dated 21.09.2020 no need of certificate issued by the competent authority in respect of domicile certificate.’*

Hence, the respondent was of the opinion that the advertisement did not require a certificate of domicile, since she applied under the general category. Under the general category, true, there need not be any certificate produced, but as a female candidate, if the certificate of domicile is not produced, the candidate has to pay Rs. 300/- at the time of application.

9. Looking at the specific averment made by the



petitioner, we are convinced that there was no certificate uploaded along with the application; contrary to the assertion made by the learned Counsel for the petitioner-respondent, which assertion we find to be baseless. The application of the petitioner is found to be invalid on account of reduced application fees submitted.

10. We have to observe that in a competitive selection process, the requirements of the application have to be scrupulously followed and when the learned Single Judge found that the decision of the Commission suffered from no legal infirmity, there could not have been a further direction to participate the disqualified candidate in the interview, on payment of the requisite fees. This would also prejudice another applicant in the very same category, who had applied with the requisite fees. There can be no equity extended when that would jeopardize the chances of another candidate, who is comparable in merit.

11. We are unable to sustain the order of the learned Single Judge and we allow the appeal setting aside the order of the learned Single Judge, making it clear that the writ petitioner-respondent was disqualified from being participated in the selection process.



12. The appeal stands allowed.

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

**(Partha Sarthy, J)**

Anushka/-

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