

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14574 of 2022

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Pappu Kumar, male aged about 39 years, Son of Arun Bhagat, Resident of Village- Mehsouri, P.O.- Mehsouri, District- Khagaria- 851205, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar.
3. Bihar State University Service Commission, through Chairman, Budhha Marg, Patna- 800001.
4. The Chairman, Bihar State University Service Commission, Budhha Marg, Patna- 800001.
5. Secretary, Bihar State University Service Commission, Budhha Marg, Patna- 800001.
6. Bagesh Kumar, (UID-BAG07121983PAL0062745), address unknown, through Bihar State University Service Commission, Budhha Marg, Patna- 800001.
7. Amrendra Kumar, Maulana (UID- AMR13021972PAL0055337), address unknown, through Bihar State University Service Commission, Budhha Marg, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siddhartha Prasad, Advocate
For the State	:	Mr. Subhash Chandra Mishra, SC-16
		Mr. Madhukar Mishra, AC to SC-16
For the B.S.U.S.C	:	Mr. Tuhin Shankar, Advocate
		Mr. Priyadarshi, Advocate
		Mr. Gopal Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 08-07-2024

Heard Mr. Siddhartha Prasad, learned counsel appearing on behalf of the petitioner; Mr. Madhukar Mishra, learned AC to SC-16 appearing on behalf of the State and Mr. Tuhin Shankar, learned counsel appearing on behalf of the Bihar



State University Service Commission.

2. The petitioner has filed this writ petition with the following prayers:

“(i) To correct and publish the result qua the petitioner who has been found eligible candidate in BC category by the commission but whose result has been declared in Unreserved category which in teeth of the reservation policy of the Government of India.

(ii) To keep one post of Assistant Professor of Pali subject vacant in BC category until the disposal of this writ application.

(iii) To forthwith appoint the petitioner on suitable post of Assistant Professor in Pali subject pursuant to the declaration of his corrected Result under BC category, if he is found to be successful.”

3. The case, set out by the petitioner in this writ petition, is that vide advertisement dated 21.09.2020, the Bihar State University Service Commission (BSUSC) invited application for filling up the post of Assistant Professor in different categories and in different disciplines. Pursuant thereto, the petitioner, who belongs to Backward Class community, had applied for the post of Assistant Professor in Pali language under General category as well as Backward Class category. On 03.01.2022, notice of tentative list of eligible



candidates was published, wherein, with regard to the application submitted by the petitioner under Backward Class category is concerned, it was notified that the petitioner has not submitted creamy layer certificate. The petitioner, thereafter, submitted creamy layer certificate on 10.01.2022, whereafter, the Bihar State University Service Commission published yet another notification of the eligible candidates on 27.01.2022, wherein it was notified that the petitioner's application for participation in the selection process for the post of Assistant Professor in Pali language under the category of Backward Class, was accepted. Thereafter, final list of the candidates found to be eligible and qualified to appear in the interview for the post of Assistant Professor in Pali language was published by the Bihar State University Service Commission on 31.01.2022, in which notification, the petitioner was found to be eligible and qualified to appear in the interview for the post of Assistant Professor in Pali language under General category candidate. Subsequently, interview for filling up the post of the Assistant Professor in Pali language was held on 09.02.2022 and 10.02.2022, respectively the final result of which was published on 17.02.2022. The petitioner, however, was not selected in the final result published on 17.02.2022. The grievance of the



petitioner is that the petitioner ought to have been selected in the interview held on 09.02.2022 and 10.02.2022, under the category of Backward Class as under the category of Backward class, but vide select list dated 17.02.2022 only two candidates from Backward Class have been selected, whereas, the advertisement was for filling up of three posts. The petitioner, however, in the interview held on 09.02.2022 and 10.02.2022 had appeared as General category candidate.

4. A counter affidavit has been filed on behalf of respondent nos. 3 to 5, wherein it has been stated that in the meeting held by the Commission on 01.02.2022, it was decided by the Commission that if a candidate fills more than one form, then only one form, filled up later in point of time, shall be accepted. The respondent authorities, therefore, contends that since the petitioner has filled up two forms one under General category and another under Backward Class category, and the application/ form filled up by the petitioner under General category was later in point of time was accepted and his candidature vide application submitted by the petitioner under Backward category was rejected.

5. From the rival pleadings of the parties, it appears that pursuant to advertisement dated 21.09.2020, issued by the



respondent- the Bihar State University Service Commission (BSUSC), the petitioner, who belongs to the Backward Class category, has filled up two forms for the post of Assistant Professor in Pali language, one under the General category and another under the Backward category. As have been noted hereinabove, the respondent- University Authorities had decided to accept only one application of candidate, which was submitted later in point of time and the application, submitted by the petitioner under General category candidate, was found to have been submitted later in point of time. Accordingly, as per the decision taken by the respondent-University Commission on 01.02.2022, the petitioner was allowed to participate in the selection process under General category and the petitioner was not called upon to participate in the selection process under Backward Class category. Though the decision to reject the petitioner's candidature under the Backward Class category was taken by the University Commission on 01.02.2022, but the petitioner has not put to challenge the said decision.

6. Thus from the above submissions made by the parties, it appears that the petitioner did not participate in the interview held on 09.02.2022 and 10.02.2022, for the post of



Assistant Professor in Pali language under the Backward category.

7. Participation in the selection process is *sine qua non* for a candidate to be selected. In the instant case, the petitioner, having not participated in the selection process for the post of Assistant Professor in Pali language under Backward Class category, in terms of advertisement dated 21.09.2020, I am of the considered view that no relief, sought for by the petitioner, can be granted in the instant writ petition.

8. The writ petition, accordingly, stands dismissed.

(Nani Tagia, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.07.2024
Transmission Date	N/A

