

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1154 of 2023

In
Civil Writ Jurisdiction Case No.12137 of 2023

-
1. Santosh Kumar, Son of Laxmi Narayan, Resident of Mohalla - Shastri Nagar, Bharti Niketan School, Near Chitragupta Mandir Kadhi Bhandar Chowk, P.O. - Ramna, P.S.- Minthanpura, District Muzaffarpur, Bihar - 842002.
 2. Rajiv Ranjan, Son of Rambriksh Choudhary, Resident of village- Khajoor Bana, Nanmuhiya, P.O. - Mahendrua, P.S. - Sultangaj, Distt. - Patna, Bihar.
 3. Ambedkar Prasad, Son of Harchu Das, Resident of Village - Bari Bishahar, P.O. - Baraat, P.S. - Barah, Barhat, Distt. - Banka, Bihar.
 4. Om Prakash Sharma, Son of Shio Shankar Sharma, Resident of Village and P.O.- Bhagwatpur, P.S. - Tariya, District - Saran, Bihar.
 5. Rina Kumari, W/o Raju Prasad Sukl Baidya, Resident of Village - Sahora, Anandpur, P.O. - Anandpur, P.S. Ashok Paper Mill, District - Darbhanga, Bihar.
 6. Niket Anand, S/o Ghanshyam Singh, Resident of Azad Chowk, Gangajala, Ward no. - 15, Near by Saket Anand, J.E. Kahara, P.O. Sharsha, P.S. Sharsha Sadar, District- Saharsa, Bihar.
 7. Sanatan Kumar, S/o Rameshwar Das, Resident of Village and P.O. - Phulwaria, Danauli, P.S. Baliya, District - Begusarai, Bihar.

... .. Appellant/s

Versus

1. Union of India through the Director General of Employment and Training, Ministry of Labour and Employment Government of India, New Delhi.
2. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Labour Department, Employment and Training Government of Bihar, Patna.
4. The Director, Directorate of Employment and Training (Training Department) Niyojan Bhawan, Bailey Road, Patna, Bihar.
5. Bihar Technical Service Commission, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Amar Nath Tripathi, Sr. Advocate Mr.Md. Najmul Hodda, Advocate
For the UOI	:	Mr. Satyendra Kumar Jha, CGC
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13
For the BTSC	:	Mr. Nikesh Kumar, Advocate



CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
CAV JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-04-2024

The impugned judgment in the appeal rejected the writ petition for two reasons. One, that the petitioners who challenged an advertisement for recruitment, did not have a pleading that they had applied in pursuance to the advertisement for the post. The learned Single Judge relied on *Vishal Ashok Thorat & Ors. vs. Rajesh Shrirambapu Fate & Ors., (2020) 18 SCC 673*, to find the writ petition to be misconceived for reason of there being absence of necessary pleadings to establish *locus standi* and since in service jurisprudence, public interest litigations are not entertained. The other reason was that the challenge itself being for the reason of the Craft Training Instructors (for brevity 'CTI') certificate being a mandatory essential qualification for appointing Instructors to the Industrial Training Units, as stipulated by the Central Government, having been substantially complied with in the advertisement since it required any selected ITI certificate holders to get the CTI certificate within a period of three years; failing which their employment would be terminated.

2. The learned Senior Counsel argued that the learned



Single Judge committed an error in so far as the mandatory essential qualification not being insisted upon in the advertisement, as unnecessary. Annexure-6 in the writ petition was pointed out to argue that the Directorate General of Training, Government of India, Ministry of Skill Development & Entrepreneurship, has mandated CITS and minimum age of 21 years as essential qualification for recruitment of Vocational Instructors in ITIs so that a uniform, standardized and systematic training can be delivered to ITI students. The State cannot deviate from the same.

3. The learned Government Advocate, however, seeks to sustain the judgment of the learned Single Judge.

4. On the question of *locus standi*, we specifically queried the learned Senior Counsel as to whether there was a pleading in the writ petition, which, it was admitted there was none. In the appeal, we see in the grounds that the appellants have pleaded that the appellants have applied against the advertisement. The draft of the writ petition was settled on 28.07.2023 and last date for applying was 03.08.2023, due to inadvertence, there was no such pleading incorporated. Even when such a pleading is incorporated in the appeal, there is nothing to substantiate the same at least by way of production of



an application filed within time, in pursuance to the advertisement.

5. We have also considered the merits of the matter. In fact, there was a writ petition filed earlier for the very same relief, which has been referred to by the learned Single Judge in ***Ranjan Kumar & Ors. vs. The Union of India & Ors.*** in CWJC No. 7890 of 2013 and its analogous cases. A Single Judge of this Court, by decision dated 17.06.2014, found that the rules have been put in place on 25.07.2013, based on which the advertisement challenged therein was quashed. A fresh advertisement was directed to be published in consonance with the requirements laid down in Bihar Industrial Training Instructors Cadre Rules, 2013, which should be in conformity with the requirements laid down by the National Council of Vocational Training as to the qualification of CTI. It was also observed that all candidates who have become overage, during the interregnum, could be given a relaxation as a one time measure; which was not a positive direction.

6. Later, a contempt was filed as MJC No. 3190 of 2018, wherein it was noticed that the Bihar Technical Service Commission, Patna requested the General Administration Department to include the post of Trade Instructor in the list of



appointments of the Technical Service Commission and also requested to amend the appointment rules by communication dated 09.01.2020. The General Administration Department, in pursuance of the same, has issued communication dated 03.08.2020, by which the Trade Instructor was included in the list of appointments to be made by the Bihar Technical Service Commission.

7. The very same advertisement was the subject of the above-said contempt proceedings. Therein another learned Single Judge noticed and upheld the condition of the candidates who do not have CITS qualification also being entitled to apply under the advertisement, specifically on the condition that they would complete their CITS within three years from the date of joining, for which they will be granted leave also.

8. The measure of the State ensuring such mandatory qualifications to be acquired by the candidates selected, within three years, we feel, is a policy decision of the State, which does not violate the mandatory requirement. Those appointed have to acquire the CITS within three years, or an extended one year; on failure of which there is a threat of being send out of the employment.

9. On the above reasoning, we find absolutely no



reason to interfere with the impugned judgment of the learned Single Judge. We dismiss the appeal also on the ground of *locus standi*, leaving the parties to suffer their respective costs.

10. Interlocutory application, if any, shall also stand disposed of.

(K. Vinod Chandran, CJ)

I agree.
Harish Kumar, J:

(Harish Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	15.04.2024
Uploading Date	20.04.2024
Transmission Date	

