

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3021 of 2024

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Piyush Singh S/O- R.L. Singh Address - 312/7, Manas Enclave, Indira Nagar,
Lucknow, PO- Indira Nagar, Distt- Lucknow, Uttar Pradesh- 226016

... .. Petitioner/s

Versus

1. The Sate of Bihar through the Principal Secretary, General Administrative
Department Government of Bihar, Patna
2. Bihar Public Service Commission Through, The Chairman 15, Jawahar Lal
Nehru Marg, (Bailey Road), Patna, Bihar- 800001
3. The Secretary Bihar Public Service Commission, 15, Jawahar Lal Nehru
Marg, (Bailey Road), Patna, Bihar- 800001
4. The Hon'ble High court Judicature At Patna Through , Registrar General
... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amit Kumar Mallick, Advocate
For the State	:	Mr. Jitendra Kumar Roy-1, SC 13 Mr. U.K.Singh, AC to SC 13
For the BPSC	:	Mr. Sanjay Pandey, Advocate Mr. Nishant Kumar Jha, Advocate
For the High Court	:	Mr. Piyush Lall, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-02-2024

The short question is as to whether the petitioner, who appeared in the 31st Bihar Judicial Services Competitive Examinations, could be directed to be selected, for reason of a correct answer being not given marks. Admittedly, the petitioner fell short of the cut off provided, by one mark. It is his contention that when a copy of the answer paper was obtained with respect to one question, his answer was correct, but he was not granted any marks.



2. The question and answer, he relies on, is 15(g) as to the 'qualifications for being appointed as Governor of a State'. Question No. 15 carries 10 marks and out of the questions at (a) to (f), only five have to be answered; thus, two marks being awarded for every correct answer. The answer of the student was as follows:-

“15(g) Qualifications of Governor

(i) He must be citizen of India

(ii) He must not hold any office of profit under the authority of Union Government or State Government. He is appointed by the President of India and is a constitutional Head of the State.”

3. We see from the Constitution of India that Article 157 provides for the qualifications, which are only that he should be a citizen of India and has completed the age of 35 years. The petitioner has gone ahead and spoken on the requirement of not holding any other office of profit and also spoken of the status of the Governor; the later of which was not required to be answered at all.

4. In any event, the specification that the Governor shall not hold any other office of profit is available under Article 158. If that is a qualification then as per Article 158(1), the Governor should not also be a member of either of the Houses of Parliament or State Legislature.

5. In fact, the specification under Article 158 is



that if a member in either of the houses is appointed as a Governor, then he would vacate the membership and hence, in the case of holding office of profit, he should resign the same. The petitioner has gone ahead and spoken of conditions for appointment, which is not there in the Constitution. In a competitive examination, there should be more focus and the answer should be precise.

6. The petitioner admits that since the two conditions, as specified under Article 157, have been included in the answer, at least one mark may be given to him; which, however is not the function of this Court. The examiner has found it fit to deny the marks, which we do not find to be in any manner unfair or incorrect.

7. We, hence, find absolutely no reason to entertain the writ petition and reject the same *in limine*.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
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