
(2010) 07 PAT CK 0148
In the Patna High Court

Abhay Kumar Labh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-07-2010

Acts Referred:

Citation : (2010) 07 PAT CK 0148

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Judgement

Navaniti Prasad Singh, J.—The petitioners had come to this Court complaining against the selection process for appointment of Block Teachers. This writ petition was filed by the petitioners who had applied for selection as Block Teachers and were not selected. They had taken their grievance to the District Teachers Appointment Appellate Tribunal (The Tribunal for brevity). The Tribunal was not disposing of the matter and in the meantime, on basis of the selection process, appointments were apprehended, this writ petition was filed. On 01.07.2009, this Court restrained the appointment process. A supplementary affidavit has been filed by the petitioners stating and bringing on record, by way of Annexure-10, order of the Tribunal dated 10.07.2009. The Tribunal has accepted the allegations of irregularity in relation to the selection process. It has noted how, on ground of people not turning up for counselling, candidates were not considered in the merit list. How there were interpolations in the counselling register. The Tribunal has, thus, set aside the entire selection process and directed the Selection Committee to proceed again in the matter. In my view, that ends this chapter of litigation. The Tribunal having passed orders and having set aside the selection process, nothing remains for the petitioners to agitate. The writ application, thus, has now become infructuous.

2. Mr. Rajendra Prasad Singh, learned Senior Counsel, on instructions, states that the order of the Tribunal has been challenged in CWJC No. 1162 of 2009 which case is pending in this Court and, as stated by him, this Court has stayed the order of the Tribunal but admits that there are intervention applications filed

opposing the relief claimed in the writ petition which is pending consideration.

3. Before parting, this Court would like to observe about the selection process. In cases after cases, people are filing writ applications before this Court on being left out of the merit list. The standard *modus operandi* and the defence of the Selection Committee is that they had not turned up for the counselling and that being so, their applications were not considered for preparation of the merit list. Thus, conveniently, meritorious candidates were eliminated from selection process on the plea of counselling. In large number of cases, complaints were made and the Tribunals have been setting aside the selection process on this ground alone. In my view, the selection process itself has been wrongly enunciated by the State Government. Mr. Rajendra Prasad Singh, who appeared to oppose this writ petition, has pointed out that the reasons for not turning up in the counselling is that they fill up application form simultaneously at different places but counselling is held on one day. It is not possible to be physically present for counselling at all places. Therefore, a large number of people do not turn up for counselling. Whatever may be the reason, it is apparent that this system is most undesirable as it leads to undesirable and unethical practices. This Court has come across cases where Tribunal has ordered production of counselling registers. They have suddenly been lost. Counselling registers, as noted by the Tribunal, have innumerable cuttings, overwriting, additions, deletions. The reason is that the Selection Committee maintains the same and can conveniently alter the same to set their objective, a totally undesirable process of selection.

4. The purpose of counselling, as disclosed by learned Counsel, is to verify the authenticity of the credentials on basis of which applications are made. In other words, seeing from original document whether a candidate is eligible or not. That is the solitary purpose of counselling. Mr Singh appearing to oppose the writ petition states that the purpose is one more that is to take their consent whether they would join or not. The question of taking consent arises only when there is a selection so that consideration is irrelevant at that stage. In my view, what only remains is checking the authenticity, correctness and eligibility as per original testimonials. This can better be achieved if amongst the applicants, who are much larger in number, a merit list is prepared and five times the number of vacancy as per merit list are called for verification of documents. To illustrate for five posts, if five thousand applications are there, it serves little purpose in calling five thousand people to submit their documents for verification. Instead as per merit list, the first 25 persons can be called for the said purpose. The persons lower down in the merit list can make no grievance and it is only a handful of persons who would be required to come for verification of documents. Thus, the hoards of people running from one counselling to another counselling at different places on the same day would be stopped and so would stop the arbitrariness of the selectors in the selection process. Once the merit list is first prepared amongst the five times number, candidates must then be noticed by registered post or public notice fixing alternative days for verification of

documents (not to be confused with counselling) so that if on a particular date, a candidate is unable to come or reach, he has a chance on the next date. Once documents are verified, the final merit list, which is the final panel from which appointments have to be made with respective marks, must be duly made public and appointment letters issued giving time of at least ten days for candidates to join. Such letters must again be sent by registered post with acknowledgement due. It is upon this process being adopted, people would have faith in the selection process otherwise what this Court is finding everyday is leading to absurdity where a Mukhiya, who heads the Selection Committee, appoints his son, his daughter-in-law and his nephew against the three vacancies. In another case, family members of the Selection Committee are alone who turned up for counselling. Rests are shown absent from counselling. Where two persons have to be appointed, persons at serial 13 and 14 are appointed from the merit list because the top twelve have not turned up for counselling. Before this Court, there are hundreds of such writ applications, not one or two.

5. In large number of cases, the explanation given by Selection Committee in respect of large number of absentees at the time of counselling is that inspite of notice being sent Under Certificate of Posting, people have not turned up. This Court has already deprecated sending notices through post Under Certificate of Posting. These are implied to deprive persons of due selection. There must be notices by registered post with acknowledgment due and public notices published well in advance.

6. With these observations, the writ petition is disposed of as infructuous.