

(2023) 11 PAT CK 0038

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6409 Of 2016

Anuj Kumar Singh Yadav

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 23-11-2023

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Citation : (2023) 11 PAT CK 0038

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : Shanti Pratap, Prabhat Ranjan

Final Decision : Dismissed

Judgement

1. After arguing for a considerable time, the learned Senior Counsel appearing for the petitioners produced before us a letter dated 19.09.2023 of the Government which reads as under:

2. A draft amendment proposed to the Bihar Pharmacists Cadre Rules, 2014 (for brevity "Cadre Rules") of various services including that of the Pharmacists has also been produced before us, which indicates that both B. Pharm Graduates and Diplomates in Pharmacy are entitled to make applications for the post of Pharmacist. Confronted with the above orders, the learned Advocate General sought for time to get instructions from the Government.

3. We hence adjourned the hearing in the morning at around 12:30 PM and at 2:15 PM, we convened. The learned Advocate General pointed out that insofar as the letter dated 19.09.2023, it is the policy of the Government not to rely upon the academic qualifications alone for the purpose of selection to the various posts. This is a communication of the Secretary to Government to the Bihar Technical Service Commission to postpone all the pending selections including that for the recruitment of Pharmacists. The policy is with respect to recruitment to all the services and the postponement specifically sought for in the letter

dated 19.09.2023 is of the recruitment process to the post of Pharmacists. Insofar as the method of selection having changed, the learned Advocate General submits that the notification now issued for recruitment of Pharmacists will be withdrawn and the Government is also contemplating amendments to be made to the Cadre Rules.

4. Insofar as the draft amendment proposed, the learned Advocate General submits that the publication is said to have been made in the newspapers calling for objections, without orders from the competent authority and the Additional Chief Secretary, Health Services is contemplating initiation of an enquiry into such publication without proper sanction. It is also submitted that the Government is contemplating amendments to the Rules, the details of which are not available as of now.

5. In the above circumstances, we are of the opinion that the writ petitions have been rendered infructuous. The writ petitions are to be closed. However, we make it clear that if the Rules are not amended and the recruitment is initiated on the very same lines, the petitioners would be entitled to seek for restoration of the writ petitions. We make it clear that the reservation would apply only in the circumstance of no amendments being made to the Rules as it exists now, thus disentitling the graduates to apply for the aforesaid post.

6. We close the writ petitions with the above reservation.