

(2015) 01 PAT CK 0027

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 11032 of 2014

Binay Kumar

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 16-01-2015

Acts Referred:

Citation : (2015) 01 PAT CK 0027

Hon'ble Judges : Ajay Kumar Tripathi, J.

Bench : Single Bench

Advocate : Raj Kishore Prasad and Sudhir Kumar Sinha, for the Appellant; Raj Kumar Singh, AC to SC, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Ajay Kumar Tripathi, J.—Petitioners want a direction upon respondent authorities to appoint them as Ayush Doctors on the basis of the terms and conditions of advertisement dated 23.9.2013, which is Annexure-1 to the writ application. A provisional list was prepared, extract thereof has been annexed as Annexure- 2. The names of these petitioners do figure therein but when it came to final appointment, they are still waiting a response from the respondents, which has not come.

2. Counsel for the petitioners formulates an argument that the respondent authority especially the State Health Society cannot alter the terms and conditions of the advertisement and since there was no provision for a written examination, the holding of a written examination and excluding the petitioners from participation is an exercise required to be struck down by the Court.

3. On the surface, the submission of the petitioners sounded logical and attractive but when the actual state of affairs have been explained by the respondent State Health Society in their counter affidavit then the reason for the State Health Society to embark on the exercise of holding an examination and appointing persons on the basis of the outcome of such exercise is not

attributable to them. They have only carried out a judicial direction which was issued in CWJC No. 22835 of 2013, decided on 16.5.2014. A copy of the said order is Annexure- A to the counter affidavit.

4. If this is the reason and the direction has come during the pendency of the exercise being carried out in terms of the advertisement contained in Annexure- 2 then the respondent authorities cannot be faulted for implementing a judicial order.

5. So long as that order stands, no other modality or procedure can be exercised by the respondent Health Society for carrying out selection of Ayush Doctors. Writ application in the above circumstances is required to be dismissed. Petitioners have no case for selection or appointment on the basis of Annexure-1 alone.