

(2012) 12 PAT CK 0066

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.12670 of 2009

Chhotelal Yadav

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 18-12-2012

Acts Referred:

Citation : (2013) 2 BBCJ 322

Hon'ble Judges : Dr. Ravi Ranjan, J.

Bench : Single Bench

Advocate : Mr. Chittaranjan Sinha, Senior Advocate and Mr. Shashi Bhushan Singh, Advocate , for the Petitioner; Mr. Dilip Kumar, A.C. to G.A.2, for the State

Final Decision : Allowed

Judgement

Dr. Ravi Ranjan, J. (Oral)—I have heard the parties and perused the records of the case.

2. This writ application has been filed for quashing the order dated 1.8.2009 as contained in Annexure-8 by which the Appellate Authority has declared the services of the petitioners illegal and has cancelled the appointment.

3. On 27.2.2012, this Court has directed the Collector of the District to file affidavit answering the queries raised in the order. The Collector of the District has held enquiry and filed show cause appending therewith his opinion as contained in Annexure-D. In view of Annexure-D has been passed during the pendency of this application taking stand against the petitioner no.1 that his appointment has been found to be illegal, the petitioner has filed I.A. No.5464 of 2012 seeking leave to challenge the report dated 18.4.2012 of the Collector, Muzaffarpur. I have heard the petitioners on that issue also and have permitted them to assail the aforesaid report also at the time of hearing.

4. It has been submitted on behalf of the petitioners that their appointments have been held to be invalid only on the ground that "(Ka)" has been inserted against their sl.nos. in the concerned register. On presumption that the same has

been added later on allowing the petitioner to illegally participate in selection process, their appointments along with others have been cancelled.

5. Learned counsel for the petitioners has submitted that the petitioners had applied for appointment and had appeared in counselling and were, thereafter selected and had joined as Panchayat Teacher. It has been submitted that except suspicion there is nothing against the petitioners as no other candidate having higher marks in the concerned category, who was in the merit list, has been left out. Petitioner no.1 has been appointed on the post reserved for the backward caste category while petitioner no.2 has been appointed under Scheduled Caste category.

6. Learned counsel has drawn attention of this Court towards Annexure-5, which is the report submitted by the Block Development Officer, Bochahan to demonstrate that, so far one Nagvanti Kumari is concerned who had applied under Backward Caste category (female), her mark sheet was found to be forged and, thus, her appointment was illegal. However, the Appellate Tribunal has found the petitioner no.1 to have been appointed on the post reserved for a female candidate.

7. Counter affidavit has not been filed on behalf of the respondents. However, a detailed show cause has been filed on behalf of the respondent no.3, the District Magistrate-cum-Collector, Muzaffarpur dealing with the matter in full detail. It appears that after the orders passed on earlier occasion by this Court directing the District Magistrate-cum-Collector to file counter affidavit, some sort of enquiry was held by him and a report has been appended with the show cause as Annexure-D. The respondent no.3 has pointed out the irregularity committed in the appointment by the Appointment Committee. It has been pointed out that from the register containing application form submitted about 1252 candidates, against four persons "(Ka) has been inserted against the sl.nos. for 17(ka) Chandra Shekhar Rajak (petitioner no.2), 31(ka) Chhotelal Yadav (petitioner no.1), 58(ka) Lalan Kumar Mishra and 98(ka) Ratnakar Mishra. It prima facie appear that they had not filed application forms within time and subsequently, their application forms have been received by giving sl.nos. just below the sl.nos.17, 25, 31, 58 and 98 by adding (ka). Out of the aforesaid five candidates, four have been appointed. That apart, it has also been stated that Chhotelal Yadav has been appointed against the post reserved for female in the Backward Caste category in view of the fact that Nagvanti Kumari was having 73.5% marks was on the top of the list and should have been appointed against Backward Caste category. Thereafter, only post that remained vacant was for female candidate in the aforesaid category.

8. In above view of the matter, the petitioner no.1 Chhotelal Yadav could not have been appointed but, for adjusting him, Nagvanti Kumari has been shown to have been appointed as Backward Caste female category. That apart, the name of one Pramila Kumari, who was having marks of 61.8%, was illegally cut and erased in the concerned verification register only to adjust the aforesaid

Chhotelal Yadav. Though learned counsel for the petitioners has challenged this report, but he has not been able to show as to under what circumstances the name of Pramila Kumari was cut off or erased from the verification register and also as to how he could have been appointed on the post earmarked for female candidate under Backward Caste category.

9. The earlier report submitted by the Block Development Officer as contained in Annexure-3 also reveals the aforesaid fact. However, so far the petitioner no.2 Chandra Shekhar Rajak is concerned, it does not appear that, except the fact that (ka) has also been added against his sl.no., any other irregularity has either been pointed out or has been considered in the impugned order. The report of the District Magistrate is also silent about him nothing has been pointed out regarding any irregularity other than the aforesaid.

10. Accordingly, the impugned order dated 1.8.2009 stands quashed so far the petitioner no.2 is concerned. However, the writ petition stands dismissed so far the petitioner no.1 is concerned.

11. As a result, this writ application is allowed in part in the aforesaid terms.