
(2007) 08 PAT CK 0023
In the Patna High Court

Dr. Vidyanand Sinha

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 10-08-2007

Acts Referred:

Bihar College Service Commission Act, 1976 — Section 2(9)

Citation : (2007) 115 FLR 951 : (2007) 4 PLJR 420

Hon'ble Judges : J.N. Bhatt, C.J.;Mihir Kumar Jha, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

J.N. Bhatt, C.J. and Mihir Kumar Jha, J.—The short question which has arisen in this Letters Patent Appeal under Clause 10 of the Letters Patent of the Patna High Court against the order, dated 9.4.2007, in CWJC No. 6339 of 2006, is whether the claimed right of the original writ petitioner, appellant herein, for being appointed as the Principal, Satya Narayan Mehar Ali Ram Nandan Karpoori College, Samastipur (College), Samastipur, after lapse of one year period, which is the life prescribed for validity of the recommendation, is legal or not?

We have heard the learned Counsels for the parties and have also considered the text and texture of the impugned order.

2. In order to appreciate the merits of the sole point in focus, let there be skeleton projection of the factual profile of the case, as below:

Dr. Vidyanand Sinha, the appellant, and Dr. Dineshwar Yadav, respondent No. 5, came to be included in the panel for the recommendation for appointment to the post of the Principal of the College, by the Bihar College Service Commission, wherein, the appellant was at serial No. 2 and respondent No. 5 was at serial No. 1, and so being at serial No. 1, respondent No. 5 came to be appointed as Principal of the said college, which is the main grievance of the original writ petitioner appellant.

3. The sole submission of the learned Counsel for the appellant that appointment of the respondent No. 5 is not legal and valid is without any substance and merit, firstly, because, the appellant was placed at serial No. 2 in the panel recommended by the Bihar College Service Commission and, secondly, respondent No. 5 came to be appointed within a period of one year from the date of recommendation by the Commission, as prescribed under the Bihar College Service Commission Act, 1976 (Bihar Act 26 of 1976) ("the Act"). Sub-section (9) of Section 2 of the Act provides that the Commission shall recommend for appointment to every post of teacher names of two persons arranged in order of preference and considered by the Commission to be the best qualified therefore as also such recommendation shall be valid for one year from the date of recommendation of the Commission.

4. It is, therefore, very clear that for every post, two names are to be recommended in order of preference. That process was done and respondent No. 5, Dr. Dineshwar Yadav, was placed at serial No. 1 who came to be appointed on the post of the Principal, within a period of one year which is the valid period prescribed under Sub-section (9) of Section 2 of the Act. There is no question of any violation of the right of the appellant whose name was recommended at serial No. 2 and, thus, his name stands automatically wiped out after the lapse of one year, specially, when the Respondent No. 5 on the basis of his being at serial No. 1 in the same recommendation had already been appointed on the solitary post of the Principal during the period of one year.

5. The view taken by the learned Single Judge thus cannot be faulted on any score. In the result, this Letters Patent Appeal shall stand dismissed. No costs.