

(2020) 09 PAT CK 0283

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7274 Of 2020

Mahipal Yadav And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 23-09-2020

Acts Referred:

Citation : (2020) 09 PAT CK 0283

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Satyendra Prasad Singh, Neeraj Raj, Nitesh Kumar

Final Decision : Dismissed

Judgement

Four petitioners have preferred the instant writ application seeking a direction to the Bihar Technical Service Commission (â??BTSCâ?? for short) to

consider petitionersâ?? candidature for appointment as Staff Nurse Grade A in the process of selection initiated under notification dated 12.7.2019.

The requisite qualification for the post of Staff Nurse Grade A, as per advertisement, was that the candidate was required to be:

(i) a General Nursing and Midwifery (GNM) course pass, possessing the certification to this effect as on last date of application;

(ii) . Registered with Bihar Nurses Registration Council (â??BNRCâ?? for short).

The relevant facts are that after publication of the advertisement for selection on 12.7.2019, for one reason or other, the last date for application dated

16.8.2019 came to be extended time and again. As per pleadings of the writ petitioners the last date fixed for submission of application was extended

lastly, upto 18.11.2019.

Petitioner No. 1 claims to have submitted his application on 10.10.2019.

Petitioner Nos. 2 and 3 submitted their applications on 15.11.2019. Petitioner No. 4 has submitted his application on 17.11.2019.

The counselling of petitioner No. 1 was done on 24.2.2020. The two petitioners, petitioner Nos. 2 and 3, had their counselling on 27.2.2020, and counselling of petitioner No. 4 was done on 6.3.2020.

From the aforesaid facts, based on pleadings in the writ petition, it is apparent that the petitioners had applied at a time much after issuance of the initial advertisement dated 12.7.2019, but within time i.e. during last few extensions.

While the authorities were extending the last date for submission of application on one ground or the other, a corrigendum dated 4.10.2019 was issued

by the BTSC. Effect of the corrigendum was that the applicant, who had not been registered with the BNRC, were to get themselves registered with

the Council prior to their date of counselling; and participate in the counselling along with registration certificate.

From the pleadings of the writ petitioners the admitted position is that none of them were registered with the BNRC and none of them possessed the

registration certificate issued by the BNRC as on the dates on which their counselling was held. They, however, have placed on record their

applications for transfer of their registration from Rajasthan to the BNRC, Patna. It has been pleaded in the writ petition that at the time of their

counselling they were told that they could submit their registration issued by the BNRC uptill last date fixed for counselling i.e., by 17.3.2020. Other

than general averments made in the writ petition there is nothing on record to show that the petitioners could have been allowed, or were allowed time

till 17.3.2020 for submitting their certificate of registration issued by BNRC. On the contrary, the corrigendum dated 4.10.2019 clearly provided that

the certificate of registration issued by BNRC was to be submitted at the time of counselling of the respective candidate. It is not the petitionersâ??

case that there was any provision under which any authority in the process of selection had been vested with any discretion to extend/relax the

uniform requirement of submitting certificate of registration with BNRC, at the time of counselling. The pleadings therefore make out no right, or any

legitimate expectations to be allowed time till 17.3.2020 for submission of certificate issued by BNRC, in stead of respective date of counselling of the

petitioners.

As per pleadings in the writ petition, the petitioners did not have certificate issued by the BNRC even till the last date of counselling, i.e., 17.3.2020.

They however have pleaded that before the last date fixed for counselling they have applied to the authorities, that they may be given some more time

to submit the registration certificate issued by the BNRC as they had already applied for transfer of their certificate of registration from Rajasthan to

BNRC.

Candidates as per corrigendum dated 4.10.2019 were required to appear for counselling along with certificate issued by the BNRC. The requirement

of submission of BNRC registration certificate on the date of counselling is a uniform requirement in the process of selection.

The petitioners Counsel has not been able to show any provision conferring any discretion on the authorities to relax the same in favour of any one for

any reason whatsoever. The expectations of the petitioner based on mere application allegedly submitted by them for extension, that they have a right

to extension of the last date, which if allowed would in fact be contrary to the terms of advertisement dated 12.7.2019 read with corrigendum dated

4.10.2019, is legally unsustainable. Having failed to produce certificates issued by BNRC on the date of counselling, the petitioners' candidature

stood disqualified from the selection process.

Based on pleadings made in the writ petition, no right is made out for claiming consideration in the process of selection.

The writ petition is devoid of merit. The same is dismissed.