

**(1986) 01 PAT CK 0007**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 4941 of 1985

Meena Rani Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 15-01-1986

**Acts Referred:**

Constitution of India, 1950 — Article 14, 16

**Citation :** (1986) PLJR 460

**Hon'ble Judges :** S.B. Sanyal, J;S. Ali Ahmad, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## **Judgement**

1. Heard learned lawyers for the petitioner, the State of Bihar as well as the counsel appearing for the Vidyalaya Seva Board. Public employment opportunity is a national wealth in which every citizen is entitled to equal right for the competitive exploitation. It has to be equally shared subject of course to the qualification necessary for holding the office. Articles 14 and 16 of the Constitution of India must be read as providing equal chance for employment and has thus come to be known as "equality clause" in the Constitution.

2. The case in hand unfurls a sordid state of affairs in the Vidyalaya Seva Board which does not seem to be aware of its duties and responsibilities flowing from the aforesaid principle. The petitioner is M.A., B.Ed. having passed her Secondary School Examination in first division and graduated with Honours in Political Science. She is also a law graduate. Pursuant to an advertisement for appointment of teachers in High Schools in Bihar in the year 1983, the petitioner applied through the Regional Employment Exchange, Bihar, and she obtained receipt of having made such an application. The applicants to the said advertisement of the year 1983 are stated to have not been called for interview. There was a further advertisement on 18th August, 1984, published in the local Aryavarta Daily inviting applications for teachers to various subjects. The petitioner had applied pursuant to the said advertisement of 1984 as well and

she was granted a receipt by the Vidyalaya Seva Board. The advertisement of 1984 required the candidates to file a stamped envelope 20x10 cms. for enabling the Board to issue interview letters under registered cover. Accordingly the petitioner had supplied the required stamped envelope. It is said that the house of the petitioner is very close to the office of the Vidyalaya Seva Board and she kept on enquiring about the result of her application from the office of the Board. In June 1985 the petitioner found that interviews were being held with respect to the said advertisement. The petitioner having not received any interview letter, the petitioner's father sent a messenger to enquire as to why no interview letter had been issued to the petitioner and the office assistant on query stated that it was not so done as she was not qualified for interview. Thereafter the petitioner made enquiries from the office of the Board and she learnt that interview letter was issued to her as well. The petitioner thereafter met the Secretary of the Board and made enquiries from him and she was informed that she was fully qualified for being appointed and the interview letter was issued to her under registered cover. The petitioner protested that even though she had filed the envelope with duly stamped registered cover with A/D for communication of the letter of interview she had not received the same. She was told that it was not the responsibility of the Board whether she got the interview letter or not and the Board cannot take any action with respect to her application now as she did not appear at the interview on the date fixed. It is thereafter said that when the dealing assistant was looking into the file, the petitioner could observe that the duly stamped envelope was still tagged to her application. The petitioner thereafter made enquiries from three postmen who are in charge of the beat where the petitioner resides to find out whether any registered letter was tendered at her residence and that was refused and/or returned, she learnt that it never so happened.

The petitioner, therefore, has come before this Court with a grievance that the petitioner's interview letter was withheld obviously for extraneous considerations and she has been denied an opportunity to participate in the interview for the purpose of selection at the instance of some interested persons to shut her out from the interview. It has been averred that the action of the Board lacks in bona fide.

3. In the counter-affidavit filed by the Board it has been asserted that interview letter under registered cover was sent to the petitioner but the same was returned by the Post Office and in support of the said stand, counsel for the Board produced before us the letter of interview that came back unserved. We also perused the receipt issued by the Post Office indicating that the same was sent by registered post bearing serial No. 718 issued by the N.C.C. Post Office, Boring Road, Patna On perusal of the envelope in which the interview letter was sent we found no endorsement indicating that the serving peon ever made an attempt to deliver the registered letter. Because of this unusual feature we sent notice to Mr. Y.V. Giri, learned Standing Counsel for the Central Government, to assist us in the matter. Not being satisfied with the reply, on 3.12.85 this Court

directed the Postal Authority to enquire into the matter and file a counter-affidavit by 13.12.1985. A counter-affidavit has been filed on behalf of the Postal Authority wherefrom it appears that the registered letter was never tendered to the petitioner. The enquiry report discloses that the said letter was registered on 15.3.85 and was received on the same date by the Patna G.P.O. This letter was handed over to beat postman Parmanand Thakur on 16.3.85 from Patna G.P.O. for effecting its delivery to the addressee, who instead re-delivered it to the sender on 16.3.85 along with four other registered letters. The beat postman who was examined in the enquiry stated that the address of the addressee having slipped from the transparent cover of the envelope, the address was not discernible; as such, it was re-delivered to the sender. He did not do so deliberately.

4. It is, therefore, manifest that the interview letter, as assailed by the petitioner, never reached her. It may, however, be remembered that the interview was held on 27.3.85 and even though the registered envelope was redelivered to the tender the next day of its despatch, that is, 16.3.85, the respondent Board took no steps to re deliver the interview letter to the petitioner. In paragraphs 5 and 6 of the counter-affidavit it has been stated by the respondent Board that on 15.3.85 as many as 60 interview letter were sent to different applicants for their apperance before the Interview Board on 27.3.85 and except a few and the petitioner all others appeared. It is further averred that from the record maintained by the office of the Board it appears that the interview letter which was issued to the petitioner on 15.3.85 was not served on the petitioner. The same was returned by the Post Office. The center-affidavit is absolutely silent of their having taken any steps thereafter to communicate the petitioner about it. Learned counsel appering for the Board contended that the responsibility of the Board ceased once the letter of interview was sent by registered post and they have no further responsibility in the matter even though the letter was re-delivered to them. This is the only mode they adopt for affording opportunity to applicants to participate in the interview. Learned counsel on being questioned that having received the envelope back with no entry of refusal or addressee not found won't the Board take any further steps in the matter, particularly when there is still sufficient time to communicate, we were told, that the responsibility of the Board ceased once the interview latter was despatched under registered cover.

5. Admittedly the envelope with the address printed thereupon provided by the candidate was not used for despatch of the interview letter. On the contrary, the Board used a transparent envelope. From the report it appears that the address of the petitioner slipped from the transparent part of the envelope and that of the sender appeared on that transparent part meant for the addressee, resulting in its re-delivery to the sender. It further transpires that the Board was aware of the non-delivery of the interview letter to the petitioner long before the date of interview, nay only one day after the despatch of the registered cover containing the interview letter.

6. The question, therefore, arises whether a citizen who has a right to exploit public employment opportunities has been denied and/or deprived of the said right. As stated earlier, public employment opportunities are national wealth in which every citizen is equally entitled to share. The right to public employment is undoubtedly a vast source of patronage for the government but is also a great source of living and happiness to our unemployed millions. The Board has been constituted to regulate its affairs in such a manner that the fundamental rights enshrined under the Constitution are not abridged and formally complied. It is required to be complied in spirit and substance. It is not expected of the Board to act mechanically and formally in the discharge of its duties but to act reasonably, fairly and with the sense of responsibility expected of a prudent person. The inaction on the part of the Board in not re-despatching the interview letter is clearly in breach of the duties and responsibilities enjoined to the office but what surprises us most is the stand of the Board that responsibilities of the Board to afford opportunity cease once the letter is despatched under registered cover in all circumstances. The Court expected that the interview letter should have been re-despatched immediately in the envelope supplied by the petitioner or the peon asked to take it to the addressee for whom the letter was meant. It has been stated on behalf of the petitioner that her address is hardly 200 yards away from the office of the Board. There are allegations of mala fide also against staff of the Board in suppressing the interview letter to deprive the petitioner of an opportunity to participate in the interview. We, however, express no opinion on those allegations but desire the Board to enquire into the allegations and take necessary steps against the staffs concerned.

7. This is not an isolated incident. We have noticed such kind of complaints in the past also. It is the duty of Public employment authorities to ensure that every eligible candidate has an effective opportunity to participate in the interview. The inaction on the part of the Board after return of the despatched letter on the very next day without any endorsement of the postal peon makes us to hold that the Board has denied equal opportunity to the applicants to participate in the interview. Its action in accepting the registered cover without any endorsement of the postal peon and its inaction not to re-despatch the same is devoid of any sense. This makes the interview held vulnerable to Articles 14 and 16 of the Constitution of India. But any stoking down of the interview held, for the fault of the Board and its officers would be punishing the candidates who participated in the interview and for no fault of theirs. We are therefore, refrained from adopting the said course.

8. In the facts and circumstances of the case, we direct the Board to hold an interview of the petitioner and if she succeeds in interview she shall be empanelled and be given the same position which she would have obtained had she been interviewed on the date the interview was actually held and forward a supplementary list to the State Government. The state will give to it the same importance and treat it as an addenda to the original list. Mr. Ishwari Singh, junior to Government Pleader No. 5, as well as Mr. Kamalapati Singh appearing for

the State Government have taken a very fair stand in this regard. The learned counsel for the State assured us in the facts and circumstances of the case, the course directed will be least harmful to others and the State Government will carry out the directions given faithfully.

9. We would, however, like to observe that it is an incumbent duty of public bodies of this nature to ensure that the candidates are duly informed about their being summoned for an interview with respect to their applications by it within a reasonable time before the interview is actually held. This could be ensured not only by sending registered letters but also by publishing it in the Notice Board of the office which must be available for consultation till the last date of interview. These bodies can also publish the names of the candidates and the date of interview in the local newspaper for wide publication, if need be, by levying a small cost recoverable along with the applications of the candidates as they do by recovering cost of postal stamp on a self-addressed envelope. This will subserve the ideals of equal opportunities in the matter of public employment. In the result, the application is allowed with the aforesaid directions and observation.