
(2006) 07 PAT CK 0070
In the Patna High Court
Case No : CWJC No. 2930 of 2006

Rajendra Kumar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 04-07-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 3 PLJR 357

Hon'ble Judges : J.N. Bhatt, C.J.; Shiva Kirti Singh, J

Bench : Division Bench

Advocate : Siya Ram Shahi, for the Appellant; S.K. Ghose, for the Respondent

Final Decision : Dismissed

Judgement

1. By this petition under Article 226 of the Constitution of India, the petitioner is desirous of anyhow making his fortune for appearance in the ensuing 26th Bihar Judicial Services Competitive Examination proposed to be conducted from 5th July, 2006 by the respondents No. 4 the Bihar Public Service Commission to fill up 318 vacancies in the Cadre of Civil Judges (Munsifs) on the premise that although he had been considered as age barred even at the time of holding of 25th Bihar Judicial Services Competitive Examination in the year, 1999 but was allowed to appear in the examination, mainly, on the two premises; (i) equity and (ii) a decision of the learned Single Judge rendered in Bishun Dutta Jha & Ors. vs. The B.P.S.C. & Ors., 1999(2) PLJR 215 (Quorum: Nagendra Rai, J.). At the admission stage, the learned Counsel for the petitioner, as well as, the learned Additional Advocate General-2 Mr. S.K. Ghose has been heard. We have examined the factual profile, as well as, the relevant provision of the Bihar Civil Services (Judicial Branch) (Recruitment) Rules, 1955 coupled with the jurisdictional parameters and the ambit of the judicial review in terms of the provision of Article 226 of the Constitution of India. Upon consideration and evaluation of the aforesaid aspects threadbare, howsoever, one may be desirous of making his fortune for the appearance in the examination for the judicial

services but unless the Legal provisions in general and the Service Rules Provisions in particular do not lend any reinforcement to the desire, which is, precisely, and, mainly, based on equitable consideration, the Court cannot help in such a petition. Equity cannot take place of the clear proposition of law provided in Rules of 1955.

2. Secondly, the reliance on a decision of a learned Single Judge of this Court, referred hereinabove, is, totally, misplaced as the said decision is not a decision on merits and it was rendered at the interlocutory stage. Therefore, under the precedential jurisprudence, it is not binding even to the concurrent Bench, much less, to the Division Bench. Apart from that since it is relied on, we have given our anxious thoughts to the text and tenor of the said order of the learned Single Judge of this Court and with due respect, it is made clear that it cannot be utilized or it cannot be taken as a support for any purpose at any time in such matters.

3. The power of relaxation in age, undoubtedly, and, admittedly, rests with the respondent No. 1 the State of Bihar upon fulfillment of certain statutory or legal obligations upon consultation insofar as the Judicial Services are concerned. It is in these context, we are of the clear opinion that this petition seeking order or a direction of this Court by invocation of the provision of Article 226 of the Constitution of India is misconceived and frivolous and it deserves only one fate of rejection at the threshold. Accordingly, the application shall stand rejected with cost.