

(1993) 10 PAT CK 0021

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3973 of 1993

Rakesh Ranjan

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-10-1993

Acts Referred:

Citation : (1994) 1 PLJR 798

Hon'ble Judges : G.S. Sharma, J;G.C. Bharuka, J

Bench : Division Bench

Advocate : Mihir Kumar Jha and Pradeep Kumar Paul, for the Appellant; D.N. Yadav, Anil Kumar Jha. and S.N. Tiwary, for the Respondent

Final Decision : Dismissed

Judgement

G.C. Bharuka, J.—This writ application has been filed by the Petitioner for issuance of a writ of mandamus directing the Convener of Combined Engineering Entrance Examination, 1992 (Respondent No. 3) and the Principal of Muzaffarpur Institute of Technology (Respondent No. 4) to admit the Petitioner in four year Engineering Degree course.

2. The Petitioner Rakesh Ranjan is the son of one Shri Ram Chandra Singh being resident of village Bihat, P.S. Barauni, lying in the district of Begusarai. Admittedly pursuant to the Petitioner's appearance at the aforesaid "examination, he was selected for admission in the third list. Thereafter the Respondent Convener issued an interview letter to the Petitioner under registered letter bearing No. 414 dated 16.2.1993 as is evident from the statement made in paragraph 3 to the counter affidavit and an endorsement of Post-office to this effect (Annexure "A"). According to this letter, the Petitioner was required to appear for interview on 28.2.1993. The case made out by the Petitioner in the writ application is that since the registered letter was never served upon him, therefore, he could not appear at the interview. But subsequently, having learnt that the persons having secured lesser marks than him have been given admission in the Engineering course, on 22nd March, 1993

he filed a representation before the Respondent Convener stating the said fact. But despite the aforesaid facts he has not been favoured with the admission in the desired course.

3. In the counter affidavit filed on behalf of the Convenor four facts have been categorically stated. Those are (i) the information was sent to the Petitioner for interview under registered letter but the Petitioner did not appear at the interview pursuant thereto, (ii) the Petitioner was given the offer for admission as per the third list, which as per the practice and procedure was not required to be published in the leading newspaper, (iii) all seats in the Engineering course in question have been duly filled up and (iv) the teaching in all Engineering Colleges has much advanced and accordingly, as per the decision taken by the CEAC-92 in its meeting dated 28.2.1993, the admission to the course in question was closed on 15.3.1993. In support thereof a communication from Respondent No. 4 has been filed as Annexure "C" to the counter affidavit.

4. The Petitioner in his reply to the counter affidavit categorically stated that the registered letter in question alleged to have been sent by the Respondent Convenor was not even received in Bihat Post Office, where the Petitioner is residing, and in support of this fact he has filed a letter addressed by him to the Superintendent of Post Office at Begusarai with a copy to the Sub Postmaster, Bihat, whereon the Sub Postmaster has endorsed on 15.5.1993 certifying that the aforesaid registered letter had not reached the said Post Office till that date. It has also been stated that after getting the said endorsement a legal notice was also sent by Mr. Mihir Kumar Jha, the learned Counsel for the Petitioner, stating all the facts and specially calling upon the postal authorities to specifically inform whether the registered letter had at all been received from Sindri and if received, on whom the same was served. It is said that no reply to this notice has been received, by the Petitioner or his advocate.

5. Under the aforesaid circumstances, we having felt that the rights and contentions of the parties being primarily dependant on the correctness of the aforesaid fact of the delivery of the registered letter, we called upon the Postmaster General, Bihar, to hold an enquiry with regard to delivery of the letter and file an affidavit stating all the facts gathered in this regard, where upon an enquiry was made from the Senior Superintendent of Post Office, Dhanbad. Upon such an enquiry it was finally ascertained that the aforesaid registered letter had been despatched to its destination, namely, Begusarai, and on further enquiry made by the Superintendent of Post Offices, it was revealed that the letter in question had in fact been received at Bihat on 18.2.1993 and stands duly entered in B.O. slip dated 18.2.1993. It was also revealed that the said letter was delivered to the addressee on that very date i.e. 18.2.1993 by the Extra Departmental Branch Post Master (in short E.D.B.P.M.), who is the In-charge of the Bihat Post Office by himself. Accordingly, he was also made a party Respondent in this case and was required to file an affidavit disclosing his stand.

6. Curiously the said E.D.B.P.M. having caught of making a false statement on

the application filed by the Petitioner that the said letter was never received at Bihat Post Office and as such, not delivered to the addressee, came out with a new stand that the letter had been delivered to Anr. Ram Chandra Singh of the same Tola. Admittedly the E.D.B.P.M. is the resident of village Bihat itself and it can reasonably be expected that he knew the addressee as well as some other Ram Chandra Singh residing in the said Tola. We for ourselves find it difficult to believe the statement of such person who has tried to make false statement even on the face of the official records maintained by him. It can also be reasonably presumed that the said Postmaster had gone to this extent even risking his service which is already under jeopardy because of a disciplinary proceeding duly drawn against him, only to favour the Petitioner who is the resident of his own village.

7. Under the aforesaid facts and circumstances and for the reasons set out by the Respondent Convenor, as stated above, we do not feel persuaded to grant any relief to the Petitioner under our writ jurisdiction. The favour shown to the Petitioner on the facts as appearing in the present case will merely encourage the citizens to indulge into such unwarranted activities of trying to get relief from this Court by securing false statements even from the public servants.

8. Mr. Mihir Kumar Jha, learned Counsel for the Petitioner, has placed reliance on a Bench decision of this Court in the case of Meena Rani Singh v. The State of Bihar and Ors. reported in 1986 PLJR 460, but, in our opinion, in the facts of the present case, that decision has no bearing.

9. The writ application is accordingly dismissed. No costs.

Gurusharan Sharma, J.

10. I agree.