

(2009) 01 PAT CK 0053
In the Patna High Court
Case No : CWJC No. 17683 of 2008

Ram Kumar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-01-2009

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2009) 57 BLJR 1195 : (2009) 2 PLJR 217

Hon'ble Judges : C.K. Prasad, Acting C.J.; Ravi Ranjan, J

Bench : Division Bench

Advocate : Basant Kumar Chaudhary and Ranjan Kumar Singh, for the Appellant; Lalit Kishore, AAG - III and Piyush Lal, JC to AAG - III, for the Respondent

Final Decision : Dismissed

Judgement

1. In this writ application prayer of the petitioner is to declare the prescription for qualification for appointment to the post of Assistant Teacher as illegal and ultravires.

2. Short facts giving rise to the present application are that the petitioner had passed the B.A. (Hons.) examination in Political Science. The State government issued guidelines for appointment of teachers including Secondary School Teachers. Paragraph 10(viii)(Ga) provides as follows:

?x? lkekftd foKku & lkekftd foKku ds vUrZxr oSls Lukrd ;ksX;rk/kkjH vH;FkhZ;ks dks fu;kstu gsrq lEefyr fd;k tk ldrk gSA tks Lukrd Lrj ij lgk;d fo"K; izfr"Bk fo"K; ds vUrZxr bfrgkl] vFkZ"kkL=] HkwXksy ,oa jktuhfr"kkL= fo"K; esa ls fdLh nks fo"K; es mRrh.kZ gks ftlesa ls vfuok;Zr% ,d fo"K; bfrgkl ;k HkwXksy vo"; gksA

3. For appointment to the post of Assistant Teacher in Social Science, according to the aforesaid policy, a candidate having graduate's degree is made eligible only when at the graduation/Hons. level he had passed in two subjects out of the subjects, History, Economics, Geography and Political Science and out of two one

has to be History or Geography. Petitioner holds B.A.(Hons.) degree in Political Science and his optional subjects are Sociology and Philosophy and in terms of the guidelines, he is not eligible for consideration.

4. Accordingly, he has challenged the eligibility criteria in the present writ application.

5. Mr. Basant Kumar Chaudhary, Senior Advocate appearing on behalf of the petitioner submits that the criteria prescribing History or Geography as one of the compulsory subjects out of the optional subjects, namely, History, Economics, Geography and Political Science at the graduation or B.A. (Hons.) level for appointment to the post of Assistant Teacher is arbitrary and, thus, hit by Article 14 of the Constitution of India.

6. We do not find any substance in the submission of Mr. Chaudhary. It is primarily for the employer to decide the qualification for appointment. This will be subject to judicial review only when unhesitatingly the court comes to the conclusion that it is arbitrary. Whether it is wise or unwise is not for the court to decide. The employer while prescribing the eligibility qualification for appointment to the post of teacher in Social Science had provided for passing of two subjects from amongst the subjects History, Economics, Geography and Political Science essential Amongst the two subjects History or Geography passing of one subject at the graduation or B.A. (Hons.) level has also been made an essential requirement.

7. We are of the opinion that the qualification does not suffer from the vice of arbitrariness and, therefore, it does not call for any interference by this Court in exercise of its writ jurisdiction.

8. We do not find any merit in the application and is dismissed, accordingly.