

Md.Taufeeque Alam Vs. the State of Bihar and ors

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SooperKanoon Citation : sooperkanoon.com/975267

Court : Patna

Decided On : May-19-2012

Appellant : Md.Taufeeque Alam

Respondent : The State of Bihar and ors

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Letters Patent Appeal No. 1077 of 2009 In Civil Writ Jurisdiction Case No. 3044 of 2009
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Md. Taufeeque Alam, Son of Late Taiyab Ansari, resident of Mohalla Alamganj Peervais, P. S. Gulzarbagh in the Town and District Patna. Appellant. Versus 1. The State of Bihar through Principal Secretary, Department of Health, Government of Bihar, Patna.

2. The Joint Secretary-Cum-Director (Indegenous Medicine), Government of Bihar, Patna.

3. Md. Shahabuddin. Principal, Govt. Tibbi College and Hospital, Patna.

4. The Govt. Tibbi College and Hospital, Kadamkuan, Patna through its Principal. Respondents . Respondents.

5. Md. Zafar Imam, Son of Inamul Haque, resident of village Darampur, P. S. Beleganj, District Gaya. Petitioner Respondent.
===== With

Letters Patent Appeal No. 1088 of 2009 IN Civil Writ Jurisdiction Case No. 3044 of 2009 ===== Md. Zafar Imam, S/o. Inamul Haque, Resident of village Darampur, P. S. Belaganj, Distt. Gaya. Appellant . . Petitioner No.

2. Versus 1. The State of Bihar, through the Principal Secretary, Deptt. of Health, Govt. of Bihar, Patna.

2. The Joint Secretary cum Director (Indegrious Medicine) Govt. of Bihar, Patna.

3. Md. Sahabuddin, Principal, Govt. Tibbi College and Hospital, Kadamkuan, Patna.

4. The Govt. Tibbi College and Hospital, Kadamkuan. . . Respondent / Respondetns.

5. Md. Taufeeque Alam, S/o. Late Taiyab Ansari, R/o. Moh. Alam Ganj Peervais, P. S. Gulzarbagh in the Town and District Patna. . . Petitioner No. 1 Respondents.

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Appearance : (In LPA No.1077 of 2009) For the Appellant : Mr. Rama Kant Sharma, Sr. Advocate. Mr. Md. Anisur Rahman, Advocate. For the Respondents : Mr. Utsav Kumar, Advocate. Mr. Mrigendra Kumar, Advocate. A. C. to S. C. X. 2 (In LPA No.1088 of 2009) For the Appellant : Mr. Sanjeev Kumar, Advocate.

===== CORAM:
HONOURABLE JUSTICE SMT. T. MEENA KUMARI and HONOURABLE MR. JUSTICE GOPAL PRASAD ORAL ORDER (Per: HONOURABLE JUSTICE SMT. T. MEENA KUMARI

19. 01-2012 Both these appeals are filed against the common order dated 16.03.2009 passed in C.W.J.C No. 3044 of 2009. The main contention of the appellants before this Court is with regard to the non-granting approval by the State Government for the appointments made for the post of Attar (Unani Compounder). The learned Single Judge had dismissed the writ petitions on the ground that no process for appointment has been followed and the matter was

remanded to the State Government for consideration and granting approval. But however, the State Government has refused the approval, against which the writ petitions were filed. The reasons for refusing the approval vide Annexure 6 was with reference to non-fixing of roster as per reservation policy by the Principal of the Government Tibbi College and Hospital, Patna. The learned Single Judge has not accepted the contention 3 of the petitioners-appellants and upheld the order of termination dated 03.01.2001 followed by the non-approval of the State. Accordingly, the appeal has been filed. It has been contended by the learned Senior Counsel that the appellants were appointed after following the due process of law by the Principal by conducting the written test and also interview as evident from paragraph 4 of the counter affidavit filed by the Principal. In the aforesaid back-ground their appointment was neither illegal nor irregular as there was no misrepresentation on the part of the respondents. Neither the roster nor the reservation policy was followed by the Principal is not a ground for rejecting the approval by the State. Learned counsel also relied upon a judgment reported in 2008 (2) PLJR 49 (Chandra Bhushan Sharma vs. The State of Bihar & Ors.) to substantiate his contention. The State counsel appearing on behalf of the respondents opposed such contention stating that the roster and reservation policy was followed by the Principal. It is a case where the action of Principal goes to show that the written examination has been conducted along with the oral examination and the appellants have been selected through 4 due process. But however, it was only conditional appointment subject to approval of the State Government for appointment. The reasons adduced by the State Government that the roster and the reservation policy have been followed cannot be sustained. There was no misrepresentation or fraud on the part of the appellants for getting their appointments. In the absence of such contention, we are of the opinion that the reasons adduced by the State cannot sustain. Accordingly, the order of rejection passed by the State is set aside and the appeals are allowed. (T. Meena Kumari, J.) S.A./Kundan (Gopal Prasad, J.)