

(2020) 12 PAT CK 0015

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 8282 Of 2020, Interlocutory Application No. 01 Of 2020

Abdul Hannan And Ors

APPELLANT

Vs

Secretary, Urban Development
And Housing Department And
Anr

RESPONDENT

Date of Decision: Dec. 3, 2020

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Syed Asfar Alam, Shankar Kumar, Deepak Kumar

Final Decision: Disposed Of

Judgement

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Syed Asfar Alam, learned counsel for the petitioners; Mr. Sankar Kumar, learned AC to AAG 7 for the State and Mr. Deepak Kumar,

learned counsel for the University Grants Commission (hereinafter referred to as the "UGC").

3. Interlocutory Application No. 1 of 2020, has been filed by nine applicants with a prayer to be impleaded as party respondents in opposition to the relief claimed in the writ petition.

4. Mr. Rajendra Narain, learned senior counsel along with Mr. Umesh Kumar Roy, learned counsel in support of the Interlocutory application

submitted that the proposed intervenors are the persons whose names appear in the final list dated 20.06.2020 and in the present case, the prayer

being to cancel both the revised cancellation list dated 30.05.2020 and the final list dated 20.06.2020, having a direct bearing and being prejudicial to

their bona fide interest of the matter, the Court may add them as parties and hear them in the present matter.

5. Learned counsel for the petitioners and State do not oppose.

6. In view thereof, the nine applicants of Interlocutory Application No. 1 of 2020 are directed to be made party respondents no. 4 to 12.

7. Interlocutory Application No. 1 of 2020, stands allowed.

8. The petitioners have moved the Court for the following reliefs:

a. To set aside the revised Counselling list dated 30.05.2020 wherein the name of the petitioners were removed.

b. To set aside the final list dated 20.06.2020 of Provisionally Selected/Waiting/Rejected List for Junior Engineer (Civil) Post.

c. To set aside the notification dated 03.07.2020 wherein the respondents have called for a physical verification of the documents of the selected candidates.

d. To reinstate the earlier Counselling list dated 30.04.2020 so that the petitioners are eligible for the selection process

e. To allow the petitioners to participate in the selection process.

f. Pass any other order/orders, direction/ directions as Your Lordship may deem fit and proper and for which the Petitioners are found entitled to in

the facts and circumstances of the case and in accordance with the law.

9. Learned counsel for the State submitted that counter affidavit on behalf of respondent no. 1 has been filed today.

10. Mr. Deepak Kumar, learned counsel submitted that he is appearing on behalf of the University Grants Commission (UGC) and submitted that he

has been instructed to appear only on 24th of last month and has not yet received instructions required for filing counter affidavit.

11. On a query of the Court to learned counsel for the petitioner as to when copy of the application was served on learned counsel for the UGC, he

submitted that within a few days of order dated 06.10.2020, and before the deadline fixed of 12th October, 2020, as per the order of the Court. The

Court is surprised at the conduct of UGC. In the order dated 06.10.2020, there was a clear direction to the UGC to file an affidavit and it is not for the

Court to go into the communication between the UGC and its learned counsel as it is privileged between the two, but the requirement was that a

counter affidavit was to be filed in terms of order dated 06.10.2020, which unfortunately has not been done.

12. In such view of the matter, the Court is constrained to award cost of Rs. 10,000/- upon the UGC for not having complied with the order dated

06.10.2020. The same be deposited through Bank Draft in favour of the Registrar General of this Court who shall deposit the same in the special

account in which the money is being deposited in terms of the order of the Court dated 12.11.2020 passed in CWJC No. 2106 of 2019. The same be

done within two weeks from today and receipt filed in the Registry, failing which the Registry shall place the matter before the Bench for necessary

orders.

13. Coming to the merits of the matter, in the counter affidavit filed by the State, the following stand has been taken:

â€œ6. That it appears that petitioners are mainly aggrieved with the decision of the Urban Development and Housing Department, Government of

Bihar by publishing revised counseling list dated 30.05.2020 whereby and where under the amended list of candidates was published on departmental

website for counseling of junior Engineer pursuant to the advertisement of P.R. no. 013732 (urban) 2019-20.

7. That it is pertinent to mention here that due to some reasons the earlier advertisement of contractual engagement of Junior Engineer contained in

P.R. no. 013732 (urban) 2019-20 has been cancelled by the department and a general notice contained in letter no. 01/stha (bibidh)-51/2020-3803

dated 13.11.2020 has been published in the News Paper through information and Public Relation Department, government of Bihar.

8. That it is further relevant to mention here that after cancellation of earlier advertisement a fresh advertisement has been issued by the department

vide letter no. 01/stha (bibidh)-51/2020-3804 dated 13.11.2020 inviting application from suitable candidates for contractual engagement of Junior

Engineers which has been published in the News Paper through information and Public Relation Department, government of Bihar.â€

14. In view of the aforesaid, learned counsel for the petitioners agrees that the application has become infructuous and the grievance no more subsists.

However, he pointed out that as per the condition of the fresh advertisement, the petitioners are no more eligible even to apply for the post in question,

which is totally arbitrary and discriminatory.

15. Learned counsel for the respondents no. 4 to 12 submitted that they have suffered for no fault of theirs as due to the inordinate delay by the

authorities, the earlier process was not taken to its logical conclusion and further that the present advertisement would be the 3rd, as initially also the

first advertisement and process was cancelled and pursuant to a second process, the matter had almost reached finality and now the State has again

negated everything and now it is being done de novo.

16. Be that as it may, the Court would only observe that in view of the action of the authorities, without going into the rival contentions on merits, as

the latest development is a fresh cause of action, nothing remains for adjudication in the present writ application.

17. For reasons aforesaid, the writ petition stands disposed off with liberty to any person aggrieved to move before the appropriate forum, in

accordance with law, for redressal of his/her grievances.

18. The Court would indicate that the cost is not a reflection on the learned counsel for the UGC, but rather at the conduct of the UGC in not ensuring

that instructions were sent to learned counsel for filing a proper counter affidavit, as required under the specific order of the Court dated 06.10.2020.