

(2007) 02 PAT CK 0201

Patna High Court

Case No: CWJC No. 4175 of 2005

Doctor Ram Pravesh Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: Feb. 9, 2007

Citation: (2007) 2 PLJR 406

Hon'ble Judges: S.K. Katriar, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

S.K. Katriar, J.

Heard Mr. Rewati Kant Raman for the petitioner, Mr. Ram Subhash Singh, JC to AAG VI, and Mr. Sanjay Pandey for respondent nos. 2 and 3 (Bihar Public Service Commission). This writ petition relates to the selection process conducted by the Bihar Public Service Commission (hereinafter referred to as "the Commission") to fill up 225 posts of Block Veterinary Officer/Traveling Veterinary Officer/Junior Veterinary Officer, sought to be done on the basis of viva-voce test alone. The petitioner complains before this Court that such a selection process comprising of viva-voce alone is capable of grave misuse, it is, therefore, submitted that a viva-voce test should be preceded by a written test which should carry more marks than viva-voce test.

2. I have perused the materials on record and considered the submissions of learned counsel for the parties. It appears that on the requisition of the State Government, the Commission conducted the selection process to recommend a panel for appointment of 225 persons to fill up the aforesaid posts. The selection process comprised of viva-voce alone. On completion of the selection process, the commission recommended the merit list to the State Government for appointment, but were not appointed-leading to CWJC No. 6253 of 2006 for a direction to the State Government to make appointments. The same was disposed of by a learned single Judge by order dated 8.8.2006, wherein this Court noted that the selection process

was vitiated by unholy acts of those who had conducted the selection process leading to an F.I.R. Consequently, this Court directed that no appointment shall be made from the said selection process and has ordered for a fresh selection process on the basis of fresh requisition to be sent by the State Government with further directions therein. The aggrieved persons preferred LPA No. 603 of 2006 against the order dated 8.8.2006, passed in CWJC No. 6253 of 2006, which has since been dismissed by order dated 20.11.2006, and the order of the learned Single Judge has been upheld.

3. The present writ petition is therefore disposed of in terms of the said order dated 8.8.2006 read with the order dated 20.11.2006. I would, however, like to observe that the Commission is passing through a very unhappy period of great crisis where its credibility has been shaken to its foundations. Repeated FIRs. are being lodged against the functionaries of the Commission including its Chairman, Members, the previous Chairman and other functionaries of the Commission, leading to their arrest during the course of investigation. The founding fathers of the Constitution have reposed great faith in the commission and vested it with wide and diverse powers which is rudely disturbed by its working.

3.1 There may be certain selection process(es), for example, very senior positions like Professor or a Managing Director, where experienced and mature persons would be candidates, there may just not be the need to hold a written test or an objective test. Otherwise, the question of weight age of marks to be attached to interview vis-a-vis marks for written examination does arise when written examination as well as viva-voce test are both accepted as essential features of selection. There can be no hard and fast rule regarding the precise weight age to be given to viva-voce test as against written examination. The Commission should consider giving greater weight age to objective factors, i.e. written/objective test, academic results, experience very objectively graded and assessed. And lesser marks may be assigned to viva-voce test to avoid misuse, favoritism and the like. It is, therefore, imperative that the commission should adopt a selection process where the written test carries more and more marks and the viva-voce test less and less marks excepting services which are in a different category altogether and illustrated above. Reference may be made to the judgment of the Supreme Court reported in [Lila Dhar Vs. State of Rajasthan and Others,](#).

3.2 In the given situation, a foolproof selection process evincing credibility is the desideratum. I would further add that the Commission in the scheme of the Constitution of India is an independent and specialised body in whom it has vested its confidence and the authority to act for the purposes it has been constituted. This Court will, therefore, desist from dictating any particular selection process to the Commission. But then the Commission should rise to the occasion and live upto the expectations enshrined in the Constitution and should, therefore, devise credible selection process.

4. The writ petition is disposed of with the aforesaid observations. Let a copy of this order be handed over each to Mr. Deo Narayan Yadav, AAG VI and Mr. Sanjay Pandey for the Commission.