

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16208 of 2024

Deo Narayan Yadav, Son of Kusumlal Yadav, Resident of Banarjhula, Ward No.- 14, Amahi, P.O.- Amahi, P.S.- Ghoghardiha, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Secondary Education, Department of Education, Government of Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The District Education Officer, District- Madhubani.
5. The Sub Divisional Officer, Sadar, District- Madhubani.
6. The Bihar Public Service Commission, Nehru Path, Patna through its Chairman.
7. The Secretary, Bihar Public Service Commission, Nehru Path, Patna.
8. The Controller of Examination (TRE- 2), Bihar Public Service Commission, Nehru Path, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Chandra, Advocate
For the Respondent/s	:	Mr. Standing Counsel (4)
		Mr. AC to SC- 4
For the BPSC	:	Mr. Sanjay Pandey, Advocate
		Mr. Nishant Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 25-11-2025

Heard the parties.

2. The petitioner, an aspirant for the post of Senior Secondary School Teacher, in the subject of Music, has invoked the prerogative writ jurisdiction of this Court under Article 226



of the Constitution of India seeking a direction upon the respondent authorities to forthwith conduct his counselling / document verification for his appointment on the aforementioned post after having been declared successful in the Teacher Recruitment Examination-2 (TRE-2) for the subject of Music.

3. Shorn of lengthy details; the petitioner did his B.A. (Prabhakar) from Prayag Sangit Samiti, Allahabad in the subject of Vocal (Music) and finally done his Post Graduate from Pracheen Kala Kendra, Chandigarh in Vocal (Music). On 04.11.2023, the Bihar Public Service Commission (in short 'the BPSC') published Advertisement, bearing no. 27 of 2023, for conducting TRE-2 for appointment of teachers in Government Schools in the State of Bihar. In the subject of Music, altogether 582 posts were advertised for appointment of Senior Secondary Teachers, out of which under Backward Class Category 71 seats were notified. The petitioner on being found eligible and possessing the qualification in the subject of Music, applied against the said post and accordingly the Admit Card was issued. The examination of Senior Secondary Teachers was held on 15.12.2023 and the petitioner secured 83 marks. The BPSC issued merit list of all the candidates, who have qualified and the name of the petitioner stands at serial no. 303 under



Unreserved category. Consequently, the BPSC on 25.12.2023 notified the districts of all the candidates and the petitioner was accordingly allotted the district of Madhubani. The process of counselling/document verification in the district of Madhubani started from 25.12.2023 and the same was directed to continue till the time the counselling of all the candidates gets completed. The notification of counselling is marked as Annexure-P/8.

4. The petitioner participated in the process of counselling and ensured his appearance on 28.12.2023 along with his Pan Card, as till the scheduled date the Aadhaar Card, for which the petitioner applied on 30.10.2023, was not issued and the document verification of the petitioner was conducted on the sole ground that he does not have Aadhaar Card. The petitioner thereafter appeared on 01.01.2024 and 08.01.2024, but the concerned respondents refused to allow the petitioner to participate in the document verification. The petitioner approached to all the authorities concerned, including the District Education Officer, Madhubani by filing detailed representation, but to no avail and finally the process of counselling continued till 31.03.2024. However, by the said date, neither the petitioner got the Aadhaar Card nor he was allowed by the authorities to participate in the counselling.



Finally, disheartened with the action of the respondent authorities, the petitioner preferred the present writ application.

5. Mr. Shashank Chandra, learned Advocate for the petitioner submitted that before issuance of the advertisement, had applied for issuance of Aadhaar Card with the UIDAI, Government of India on 30.10.2023. The acknowledgment receipt of application dated 30.10.2023 clearly stipulated that for generating Aadhaar number, 90 days time would be taken. Despite clear stipulation, the same was not generated within the stipulated period, rather the Aadhaar card of the petitioner came to be issued on 03.05.2024, as a result of which the petitioner has been denied appointment on the ground of non-production of Aadhaar card. Clause 10, Note (1) of the Advertisement stipulated that the candidate, at the time of submitting Online application form, if does not provide the details of Aadhaar number, then such candidates have to pay extra Rs.200/- for their Biometric verification. The said clause also says that at the time of verification, it is expected that the candidate will provide Aadhaar number, as also the Mobile number, which is linked to Aadhaar. It is further made clear that at the time of document verification, if any difficulties arise regarding OTP on the mobile number, the eligibility of such candidate may be



affected. Since the petitioner did not have an Aadhaar card and, as such, the petitioner in the column of ID had mentioned PAN card number and paid an additional charge of Rs.200/- for his Biometric verification.

6. The very purpose of furnishing of Aadhaar card details was for carrying Biometric verification of the candidates, however, an alternative mechanism for Biometric verification has also been provided under the advertisement, so that the candidature of the candidate does not get cancelled on account of candidate having not submitted the Aadhaar card. Admittedly, the petitioner had applied for Aadhaar card on 30.10.2023 and thus it was expected that Aadhaar card number must have been issued till 30.01.2024, however, even till 30.01.2024, the last date of verification of certificate, the same could not be generated and lastly on 03.05.2024, the Aadhaar card of the petitioner was issued. For no fault of the petitioner, despite having been qualified and secured 83 marks and placed at merit serial 303 under unreserved category, the petitioner was not allowed to participate in the process of counselling. It is vehemently contended that production of Aadhaar card at the time of document verification was not mandatory, rather it merely recorded that the candidates were expected to have their



Aadhaar card on the date of counselling. In absence of any clear stipulation in the advertisement that non-production of Aadhaar card at the time of verification, the candidature of the candidate will be cancelled, the impugned action of the respondent is completely bad and illegal.

7. Mr. Shashank Chandra, learned Advocate for the petitioner averting the aforesaid facts further submitted that the procedural defects not affect the merit of a candidate and since generating Aadhaar card number and/or issuance of Aadhaar card was beyond the control of the petitioner, hence any delay in generating the Aadhaar number, the petitioner could not be made to suffer. To support the aforesaid contention, learned Advocate for the petitioner placed reliance on a decision rendered by the Apex Court in the case of *Narender Singh Vs. State of Haryana and Ors.*, reported in, (2022) 3 SCC 286. Further the decision passed in Civil Appeal No.9040 of 2022 (*Kumari Laxmi Saroj & Ors. Vs. State of U.P. & Ors.*) and SLP (Civil) No. 27139 of 2024 (*Shreya Kumari Tirkey Vs. The State of Jharkhand & Ors.*).

8. Per contra, learned Advocate for the State submitted that after publication of the merit list, the BPSC notified the district of all the candidates, who have cleared the



examination; accordingly the petitioner was allotted the district of Madhubani, where he was required to participate in the process of the document verification. In terms of the aforesaid notification, the process of counselling/document verification started from 25.12.2023 and continued till the verification of documents of all the candidates. The petitioner, though participated in the counselling, but at the time of document verification, he was not possessing any Aadhaar card and thus no verification could be done. The purpose of furnishing Aadhaar card details was to carry out Biometric verification of the candidate. Nonetheless, the petitioner was afforded opportunities to provide Aadhaar card, but he could not produce the same till the last date of counselling. Referring to Clause 10 under Note(1) of the Advertisement, it is submitted that the candidate, who at the time of submitting the Online application form has not provided the details of Aadhaar number then such candidate has to pay an extra Rs.200/- for Biometric verification. There was a clear stipulation that it is expected that the candidate will provide Aadhaar number and also the mobile number, which is linked to Aadhaar. If any difficulties arises regarding OTP on the mobile number, the eligibility of such candidate may be affected.



9. Reliance has also been placed on a decision rendered in the case of *Union of India Vs. Mahendra Singh*, reported in *2022 SCC OnLine SC 909* where the Court referring to an earlier decision rendered in the case of *Cherukuri Mani Vs. Chief Secretary, Government of Andhra Pradesh* held that where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law without deviating from the prescribed procedure.

10. It is lastly contended that now all the process of examination and recruitment of TRE-2 has been completed and further process of TRE-3 is also over. At this belated stage no relief could be granted to the petitioner.

11. Learned Advocate for the BPSC while adopting the aforementioned submissions of the learned Advocate for the State further contended that the duty of the Commission is only confined to conduct the fair and transparent examination and publication of the result following the recommendation/allotment of the district. However, there is no complaint in this regard.

12. This Court has anxiously heard learned Advocate for the respective parties and meticulously perused the



materials available on record. There is no doubt that strict adherence to the terms and conditions of the instruction is paramount and the Court while exercising the power under Article 226 of the Constitution of India cannot modify or relax the instructions, as issued and prescribed in the Advertisement [Vide *State of T.N. v. G. Hemalathaa, (2020) 19 SCC 430*].

13. Now coming to the case at hand, it is not in dispute that prior to publication of the Advertisement on 04.11.2023, the petitioner had applied for issuance of Aadhaar card with UIDAI, Government of India on 30.10.2023, as is evident from the acknowledgment placed on record as Annexure-P/2. He was rightly expecting that he will get the Aadhaar number within the stipulated period of 90 days. In the meanwhile, the captioned Advertisement came to be notified and the petitioner fairly submitted his application showing PAN card number in the column of ID, as the petitioner did not have the Aadhaar card. He also paid an additional charge of Rs.200/- for verification. On being found no impediment in the advertisement, Admit card was duly issued, the petitioner appeared in the examination after subjected to Biometric verification and no objection was raised regarding his candidature or eligibility. The petitioner did well and scored 83



marks and thus he has been placed at merit serial no.303 under unreserved category and consequently the District was also allotted.

14. The very purpose of furnishing Aadhaar card, detail was meant for carrying Biometric verification of a candidate, however, alternative mechanism for Biometric verification was also provided under the advertisement so that the candidature of a candidate does not get cancelled on account of the candidate having not submitted the Aadhaar card and for the said purpose additional charge of Rs.200/- was directed.

15. Bare reading of Clause 10 under Note (1) of the Advertisement, there is no doubt to comprehend that submission of the details of Aadhaar number was not mandatory and the candidates, who did not have the Aadhaar number, they were required to pay an extra amount of Rs.200/- for their Biometric verification, however, it was expected that the candidate will provide Aadhaar number, as also the mobile number, which is linked to Aadhaar for convenience of document verification. For ready reference Clause 10 under Note (1) is reproduced hereinbelow:

“10. शुल्क :-

अभ्यर्थियों को प्रत्येक पद के लिए

Biometric fee के रूप में 200/- (दो सौ) रुपये



अलग-अलग प्रत्येक परीक्षा (यथा शिक्षा विभाग के अन्तर्गत मध्य विद्यालय, माध्यमिक विद्यालय, विशेष विद्यालय अध्यापक एवं उच्च माध्यमिक विद्यालय तथा पिछड़ा वर्ग एवं अति पिछड़ा वर्ग कल्याण विभाग के अन्तर्गत प्रारम्भिक शिक्षक (प्रशिक्षित), माध्यमिक शिक्षक (स्नातक प्रशिक्षित), उच्च माध्यमिक शिक्षक (स्नातकोत्तर प्रशिक्षित) एवं प्रधानाध्यापक के लिए कोटिवार निम्न शुल्क जमा किया जाना है:-

(i) सामान्य अभ्यर्थियों के लिए-
750/- (सात सौ पचास) रुपये

(ii) अनुसूचित जाति/अनुसूचित जनजाति के लिए- 200/- (दो सौ) रुपये

(iii) सभी आरक्षित/अनारक्षित वर्ग महिला उम्मीदवारों के लिए- 200/- (दो सौ) रुपये

(iv) दिव्यांग अभ्यर्थियों (40% या उससे अधिक) के लिए- 200/- (दो सौ) रुपये

(v) अन्य सभी उम्मीदवारों के लिए- 750/- (सात सौ पचास) रुपये

अभ्यर्थी को उपर्युक्त परीक्षा शुल्क के अतिरिक्त विभिन्न बैंकों द्वारा निर्धारित चार्ज भी देना होगा, जिसे ऑनलाइन भुगतान के क्रम में बैंक द्वारा स्वतः बैंक चार्ज के रूप में ले लिया जाएगा।

नोट:- (1) वैसे अभ्यर्थी जिनके द्वारा ऑनलाइन आवेदन में पहचान पत्र के रूप में आधार संख्या (Aadhaar No.) अंकित किया जाता है, उन्हें **Biometric fee** के रूप में 200/- (दो सौ) रुपये अतिरिक्त शुल्क प्रति पद का भुगतान नहीं करना होगा।

दस्तावेज सत्यापन की सुगमता हेतु पहचान पत्र के रूप में आधार संख्या (Aadhaar No.) अंकित किया जाना अपेक्षित है। साथ ही आधार लिंक मोबाईल संख्या का अंकन किया जाना अपेक्षित है। आधार लिंक मोबाईल नम्बर नहीं होने की स्थिति में यथाशीघ्र



मोबाईल नम्बर को आधार से लिंक करा लें। परीक्षाफल के प्रकाशन के उपरान्त दस्तावेज सत्यापन के समय अभ्यर्थी के मोबाईल पर यदि **OTP** की समस्या उत्पन्न होती है एवं दस्तावेज सत्यापन में असफल होने पर उनकी पात्रता प्रभावित होगी।”

16. The case at hand clearly demonstrate that the petitioner had applied for generating Aadhaar number prior to issuance of notification of captioned advertisement, however, because of his no fault, he could not get his Aadhaar card within the stipulated period and, as such, one thing is admitted that the petitioner was not at fault.

17. In the case of **Narender Singh** (supra), a candidate, who was appellant before the Apex Court had appeared in the examination conducted on 05.03.2017 and the result whereof declared on 06.11.2017. The appellant qualified in the written examination, in anticipation that Non-receipt of NOC may disqualify him from his appointment filed writ petition in the High Court praying for issuance of direction to employer to release NOC. In pursuant to the interim order passed by the High Court, the appellant provisionally interviewed and final result was declared on 15.12.2017 while actual appointments were made on 12.07.2018. the appellant received NOC on 06.06.2018 and submitted the same to Haryana Public Service Commission on 08.06.2018.



Nonetheless, he was denied appointment since all the appointments had already been made, as he could not produce the NOC within time. On being found no succor from the learned Single Judge as well as Division Bench of the High Court, he preferred the appeal.

18. The Apex Court taking note of the fact that whatever was the lapse and/or the delay was, it was on the part of the employer of the appellant, who did not issue the NOC though applied on 22.03.2016 and which was issued only on 6-6-2018 and that too after the intervention of the High Court and in the meantime, the last candidate, who was appointed had less marks than the appellant and thus the appellant is found more meritorious candidate than the last candidate appointed. Hence, the denial of the appointment of the appellant is held to be unjustified and thus the Court observed that he cannot be punished for no fault of his. The Apex Court set aside both the orders of the learned Single Judge as well as Division Bench of the High Court and directed the respondents to appoint the appellant, as he is found to be more meritorious candidate than the last candidate.

19. Further in the case of ***Kumari Laxmi Saroj & Ors.*** (supra), the applicants for the post of Health Worker



(Female) had filled up their application form and appeared in the said examination. The eligibility of the candidate was required to be considered only during verification of the documents. The appellants of the said case were registered with the M.P. Council, except one. The M.P. Council furnished the NOC. However, the U.P. Council did not issue the registration and therefore the respective appellants could not produce the U.P. registration and thus the candidature of the appellants were not considered for appointment on the ground that at the time of verification of the documents they were not duly registered with the Uttar Pradesh Nurses and Midwife Council, Lucknow. Being unsuccessful before the High Court, the appellants preferred SLP before the Apex Court. The Apex Court having noticed that there was no fault on the part of the appellants in not producing the U.P. Council registration either at the time of submitting the applications forms or even at the time of verification of documents held that the appellants could not have been made to suffer and found the case of the appellants is directly covered by the decision rendered in the case of **Narender Singh** (supra). It would be relevant to note the observation of the Apex Court hereunder:

“4.2 From the aforesaid, it can be seen that as such, there was no fault on the part



*of the appellants in not producing the U.P. Council registration either at the time of submitting the applications forms or even at the time of verification of the documents. As such, all the appellants except one had applied for U.P. Council registration before the date of advertisement i.e., 15.12.2021. Therefore, for no fault(s) of theirs, the appellants could not have been made to suffer. The issue involved is directly covered by the decision of this Court in the case of **Narender Singh Vs. State of Haryana and Ors.; (2022) 3 SCC 286**. In the said decision, it is observed and held by this Court that once it was found that there was no lapse/delay on the part of the applicant and/or there was no fault of the appellant/applicant in not producing the NOC at the relevant time, he cannot be punished for the same. When the aforesaid decision was pressed into service before the High Court on behalf of the appellants, the High Court has not followed the same by observing that the directions issued by this Court in the case **Narender Singh** (supra), were in exercise of powers under Article 142 of the Constitution of India. The aforesaid is a misreading and/or misinterpreting of the judgment of this Court. This Court has specifically laid down the law that if it is found that there is no lapse/delay on the part of the applicant, he cannot be punished for no fault attributable to him. However, as in*



that case, another candidate/employee was already appointed, this Court had protected his service also while exercising the powers under Article 142 of the Constitution of India. Therefore, exercise of the powers under Article 142 of the Constitution of India was for protecting the service of another employee - respondent No. 4 in that case. The High Court has as such, misread the judgment of this Court.”

20. Further in the case of **Shreya Kumari Tirkey** (supra), the candidate, who had appeared in the Jharkhand Combined Civil Services Competitive Examination, 2021 and upon successfully qualifying in both Preliminary and Mains examination had provisionally shortlisted for the document verification. The interview was scheduled to be held on 14.05.2022 to 15.05.2022 respectively. Subsequently, the commission issued another press advertisement stating therein that the candidates who will participate in the interview, their medical examination will be fixed in the next day in Sadar Hospital, Ranchi and the candidates were requested to ensure their presence on the said dates. Unfortunately, the appellant could not appear for the medical examination as she was under the belief that the last date for interview and documents verification was fixed as 16.05.2022 and therefore the medical examination will be conducted on 17.05.2022. However, the



candidature of the appellant came to be rejected on the ground for non-appearing in the medical examination, on the very next day of interview.

21. The appellant assailed this order before the learned Single Judge, however, the same came to be dismissed. The intra court appeal preferred by the appellant also upheld the order of the Single Judge, hence the appellant approached the Apex Court. The Apex Court primarily taken note of the fact that the appellant belongs to a marginalized community, being member of Scheduled Tribe, has already proven her merit by qualifying the Preliminary Examination, Mains Examination and thereafter successfully appeared before the Interview Board and got her documents verified on time. However, because of some confusion or mis-impression she could not ensure her appearance for the medical examination on the date fixed. Thus, the Court held that non-appearance for medical examination without there being a proper clarity of which day the candidate is expected to appear is discriminatory qua the present appellant. Medication examination is said to be conducted only to assess the physical fitness of a candidate and their suitability for the job and is not an assessment of the merit of the candidate. The Apex Court observed as follows:



“We therefore, fail to understand why would the appellant intentionally omit to appear for medical examination and thus, be punished so disproportionately as has been done in this case. Even if it is accepted that the appellant was negligent in not being available for medical examination as per prescribed schedule, the appellant deserves to be dealt leniently. To uphold the constitutional promise by uplifting individuals belonging to marginalized community such procedural hurdles must not be resorted to cause further hardship and injustice. The goal is upliftment and not finding out ways to reject them at the very threshold.”

22. In the light of the aforementioned settled legal positions and the discussions made hereinabove, this Court is of the opinion that the very aim and object of the recruitment process is to get a meritorious candidates amongst the eligible candidates by providing equal opportunity to all such candidate in consonance with Articles 14 and 16 of the Constitution of India.

23. Admittedly, the petitioner belongs to Backward Class category candidate, secured 83 marks and thereby cleared the cut off marks of unreserved category for the subject and placed at merit serial no. 303 under unreserved category. The



petitioner had applied for generating the Aadhaar card number before publication of the advertisement and the same was to be generated within the stipulated period of 90 days, however, the same was not done. The petitioner thus could not have been made to suffer for his no fault.

24. In view of the settled legal position and the facts and circumstances discussed herein before, this Court finds substance in the writ petition; accordingly, the same stands allowed. The respondent authorities, especially the respondent nos. 2 and 4 are hereby directed to get the verification of the documents done preferably within a period of eight weeks from the date of receipt/production of a copy of this order and make a fresh allotment of the School against any of the vacant post of Senior Secondary Music Teacher.

25. In case, the vacant post of Senior Secondary Music Teacher is forwarded to the fresh recruitment or subsequent advertisement, the appointment of the petitioner shall be made against the existing vacant post. However, for the purposes of seniority and other benefits he shall be accorded similar treatment, as has been extended to the last candidate appointed for the post of Senior Secondary Music Teacher under unreserved category, except the monetary benefit.



26. There shall be no order as to costs.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.11.2025
Transmission Date	NA

