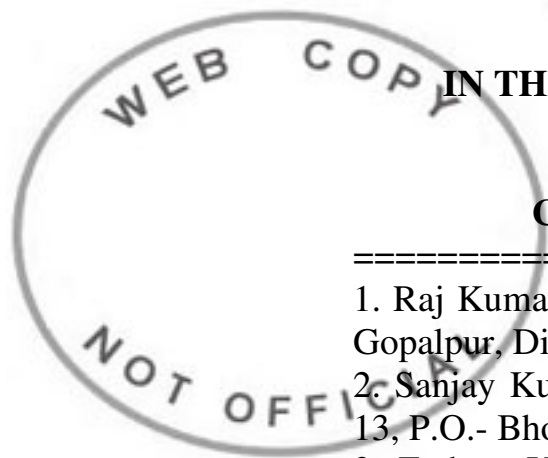




IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No 1221 of 2012
IN
Civil Writ Jurisdiction Case No 19808 of 2011

- =====
1. Raj Kumar S/O Manohar Prasad Yadav R/O At + P.O.- Latra, P.S.- Gopalpur, District- Bhagalpur
 2. Sanjay Kumar Yadav S/O Bisheshwar Yadav R/O At- Bhowra No. 13, P.O.- Bhowra, P.S.- Sudamdih, District- Dhanbad
 3. Fudena Yadav S/O Sri Kawal Yadav R/O Village- Chandrapura, P.O.- Hathilpur, P.S.- Brahmpur, District- Buxar
 4. Dinesh Kumar S/O Suresh Prasad Yadav R/O At - Araria, P.O.- Balaha, District- Khagaria
 5. Sanjay Kumar Yadav S/O Anil Yadav R/O Village +P.O.- Arai, P.S.- Shahjahanpur, District- Patna
 6. Pravin Kr. Yadav S/O Basudeo Pd. R/O Vill.- Sadpur, P.S.- Shahkhurd, Distt.- Bhagalpur
 7. Shankar Kumar S/O Ram Chandra Bhagat R/O Village + P.O.- Kab, P.S.- Ranitalab, Distt.- Patna
 8. Ravindra Kumar Singh S/O Satyanarayan Singh R/O Village- Damodarpur, Shahkund, Distt.- Bhagalpur

.... Appellant/s

Versus

1. The State Of Bihar through the Secretary, Central Selection Board, Patna
2. The Central Selection Board (Constable Recruitment) Bihar, Patna through Its Secretary
3. The Chairman, Central Selection Board (Constable Recruitment), Bihar, Patna
4. The Central Selection Board (Constable Recruitment), Bihar, Patna
5. Mukesh Kumar, son of Indal Ram, resident of Village – Budhgharea, PS – Wazirganj, District – Gaya
6. Vinay Kr, son of Mahendra Ram, resident of Village – Budhgarea, PS – Wazirganj, District - Gaya

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Rajendra Prasad Singh, Sr Advocate

With Mr Rajeev Kr Singh & Ms Arpana
Kumari, Advocate
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For the State : Mr Sharad Kumar Sinha, GP XV

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 26-02-2015

IA No 5259 of 2012 has been filed for condoning the delay in filing the appeal.

2 Having heard learned counsel for the parties, delay in filing the appeal is condoned. IA No 5259 of 2012 stands disposed of.

3 Heard Shri Rajendra Prasad Singh, learned Senior Advocate in support of this appeal and also Shri Sharad Kumar Sinha, GP XV for the State and with their consent, this appeal is being disposed of at this stage itself.

4 The appellants in this intra-Court appeal were the writ petitioners. They had applied for the post of Constables in the District Police, Bihar Military Police and Railway Police, final results whereof were published on 11.07.2011. This was pursuant to advertisement which was published on 11.02.2009. It is not in dispute that the petitioners/appellants, while filing their applications, where disclosure has to be made about their caste category to avail reservation, they had marked their caste as Most Backward Category

(MBC) which was found to be wrong when ultimately they were asked to produce their caste certificate. They all had caste certificate of only backward category. It is on this ground that they were not selected as their applications were found not in order and not tallying with their certificates. The learned Single Judge held that the writ petitioners were to blame for their predicament. They were all literate. The minimum qualification being matriculation, they should have understood the requirements and the consequences. Thus holding, the writ petition was dismissed.

5 Shri Rajendra Prasad Singh submits that mere holding that the writ petitioners, appellants before us were literate raises no presumption. It is a matter of understand. Merely because a person is matriculate does not mean he is literate to understand everything. He further submits that none of the writ petitioners/appellants are educated in public schools or in good colleges. The mistake was bona fide. Instead of being MBC, they were of backward category. This itself shows their background. He submits that amongst the petitioners/appellants, some have done just the opposite. Those, who were in fact MBC, have filled backward category. Nothing was intentionally to gain any undue advantage. He further submits that in the said selection process for the category for which the petitioners/appellants have the certificate, there is still vacancy. The selection process has not concluded. He submits that in

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another writ proceedings, a Single Judge had disapproved the selection process and directed the exercise to be done all over again. State has taken the matter in intra-Court appeal where the matter is still subjudice. Thus, he submits that a person, who was otherwise qualified and who may otherwise qualified in the selection process, on this hyper technicality, should not be deprived of employment opportunity.

6 Having considered the matter, in our view, ends of justice would be served if the petitioners/appellants are considered for appointment in the respective category for which they have valid certificates subject to availability of post and further subject to their qualifying on merit in the vacancy, if any, available in the said selection process. We have done so because, in our view, a person, who is supposed to be a matriculate coming from a backward category, can commit such a mistake which is bona fide.

7 This order is passed in the peculiar facts and circumstances aforesaid.

8 This appeal is, accordingly, disposed of.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

M.E.H./-

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