

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21730 of 2014

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1. Anil Kumar Son of Yugal Prasad Resident of village-Sukhmal Char, P.O.-Daulatpur, P.S.- Bhagwanganj, District- Patna.
 2. Shyamdev Kumar Son of Ramhriday Yadav Resident of village-Gongaripar, P.O.- Hargawan, P.S.- Manpur, District-Nalanda.
 3. Sanjay Kumar Son of Govind Sharma Resident of village-Dumari, P.O.-Malikpur, P.S.- Rajgir, District- Nalanda.
 4. Shambhu Kumar Son of Ratichand Paswan Resident of village- & Post- Tungi, P.S.-Deepnagar, District- Nalanda.
 5. Shashi Shanker Kumar Son of Vinod Singh Resident of village- P.O. & P.S.-Rupow, District-Nawadah.
 6. Rana Vikash Kumar Son of Suresh Kumar Rana Resident of village-Bhatauliya, P.O.- Minapur, P.S.- Minapur, District- Muzaffarpur.
 7. Lalan Paswan Son of Parmeshwar Paswan Resident of village-Mirzapur Koahi, P.O.-Laheraisarai, P.S.- Bahadurpur, District- Darbhanga.
 8. Avishek Kumar Son of Ashok Mandal @ Asok Mamdal Resident of village & P.O.-Herudi Yara (Kalisthan) P.S.- Naya Ramnagar, District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Home Department, Govt. of Bihar, Patna.
3. Thbe Director General of Polioce, Bihar, Patna.
4. The Superintendent of Police, Rohtas at Sasaram
5. The Chairman, Central Selection Board, (Constable Recruitment), Bihar, Patna.
6. The Secretary, Central Selection Board, (Constable Recruitment), Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha
For the Respondent/s : Mr. GP22- G.P. OJHA
For the C.B.S.C. : Mr. Sanjay Pandey and Mr. B.K.Mishra.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-02-2015

Heard learned counsel for the parties.

Petitioners tried to make out a story as if for totally arbitrary and irrational reason the petitioners despite selection were not permitted to join the post of constable. The writ application was

based on such assertion.

A counter affidavit has been filed on behalf of the respondent authorities. The respondent authorities have not only categorically stated in the counter affidavit as to the reason of non-appointment of the petitioners on the post of constable but have also annexed supporting materials as evidence of the position taken in the counter affidavit.

The stand in the counter affidavit is that all these petitioners were subjected to a medical board who found them to be color blind. They were re-subjected to another medical board and that medical board came to the same conclusion of petitioners being color blind. Since in the review medical board also these petitioners were again found to be color blind, they were not appointed. Any selection is subject to a candidate being medically fit.

Counsel for the petitioners submits that they should be permitted to obtain / procure certificate from a medical doctor, may be a Government one. The opinion of a medical doctor cannot be substituted over and above the opinion of two medical boards which have come to the same conclusion.

If this is so, we cannot even say that on an irrational basis, on the opinion of the first medical board, the petitioners were denied the benefit of selection. Any appointment ultimately can

be based on medical fitness of the candidates. In this case the petitioners cannot work on the post of constable if they are color blind.

Writ application is dismissed.

(Ajay Kumar Tripathi, J)

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