

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.482 of 2014

In

Civil Writ Jurisdiction Case No. 9231 of 2014

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Rekha Kumari D/O Sukdev Prasad Yadav R/O Mohalla - MIG - 158,
Hanuman Nagar, P.S. Patrakar Nagar, Kankarbagh, Patna

.... Appellant

Versus

1. The State Of Bihar through the Principal Secretary, General Administration Department, Govt. Of Bihar, Patna
2. The Director, General of Police, Bihar, Patna
3. The Inspector General of Police, Bihar, Patna
4. The Chairman, Bihar Staff Selection Commission, Patna
5. The Secretary, Bihar Staff Selection Commission, Patna
6. The Joint Secretary, Bihar Staff Selection Commission, Patna
7. Kumari Kanchan Sinha, D/o- Sita Ram Prasad, Roll No. P113955, R/o- not known through Bihar Staff Selection Commission office at Veterinary Collge, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Khurshid Alam

For the Commission : Mr. Prabhat Kumar Singh

For the State : Mr. Sanjay Prakash Verma, A.C. to G.A. 1

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH)**

7 08-10-2015 Heard learned counsel appearing on behalf of the

appellant, learned counsel for the Bihar Staff Selection

Commission and learned counsel on behalf of the State of Bihar.

2. Present appeal under Clause 10 of the Letters Patent of

this Court has been preferred against the order, dated 11.02.2014,

passed in C.W.J.C. No. 9231 of 2013 by a learned Single Judge of

this Court, whereby the writ application, preferred by the appellant

under Article 226 of the Constitution of India, has been dismissed.

3. Before we advert to the submissions advanced on behalf of the appellant for assailing the order under appeal, relevant facts need to be taken note of.

4. The Bihar State Staff Selection Commission (hereinafter referred to as the 'Commission') had come out with an advertisement No. 704/2004 inviting applications against the posts of Sub-Inspector of Police. The appellant was admittedly an applicant to the post, pursuant to the said advertisement. A physical test was held. It is not in dispute that the appellant had cleared the physical test. After having successfully completed the physical test, the appellant was required to fill up fresh application form, in an OMR (Optical Mark Recognition) sheet, for the purpose of written examination to be conducted by the Commission. The final result came to be declared by the Commission on 25.05.2008. The appellant was not declared successful.

5. It is the claim of the appellant that she belongs to *backward class* and she was accordingly entitled to the benefit of reservation against the post in accordance with the advertisement and the reservation policy of the State of Bihar, which was denied to her. Raising a grievance to this effect, she had earlier

approached this Court by filing a writ application under Article 226 of the Constitution of India giving rise to C.W.J.C. No. 20173 of 2013.

6. A learned Single Judge of this Court, disposed of the said writ application by order, dated 01.11.2012, with a direction to the Secretary of the Commission to look into her grievance and dispose of her claim within a period of six weeks. In compliance of the said order, dated 01.11.2012, the Commission through its Joint Secretary, communicated to the applicant, vide letter, dated 11.12.2012, that in her OMR application, she had not claimed any reservation and had shown to have applied as a *general candidate*. Alongwith the said communication, dated 11.12.2012, application submitted by her, on OMR sheet, was also enclosed.

7. Aggrieved by the letter dated 11.12.2012, the appellant filed yet another writ petition giving rise to C.W.J.C. No. 9231 of 2013, which came to be dismissed by the order under appeal, dated 11.02.2014. This is how the present appeal under the Letters Patent of this High Court has been preferred against the order, dated 11.02.2014, passed by the learned Single Judge.

8. It has not been disputed by the appellant nor has any submission been made on her behalf that the fact that the appellant had described herself to be a *general candidate*, in her application

in OMR sheet, is incorrect. It is also not in dispute that the result was published on 29.05.2008 and the appellant, for the first time, approached the Commission on 30.10.2011 raising a claim that she belonged to one of the *reserved classes/backward class*.

9. Mr. Khurshid Alam, learned counsel appearing on behalf of the appellant, has submitted that at the time of submission of her application, pursuant to the advertisement No. 704/2004, she had claimed herself to be a *backward class* candidate. He accordingly contends that merely because of a mistake committed by her, while filling OMR sheet, her claim of belonging to the category of *backward class* ought not to have been denied.

10. Learned counsel, appearing on behalf of the Commission, on the other hand, would contend that there is no infirmity in the decision of the Commission inasmuch as the appellant's performance was evaluated against open seats only and not against any post meant for any *reserved class*. He has accordingly submitted that the order, under appeal, dated 01.11.2012, does not require interference, particularly, when the process of selection stood completed as far back as in the year 2008.

11. Having considered the materials on record and the



rival submissions on behalf of the parties, there being no dispute about the fact that the appellant, in her application, in OMR sheet, did not claim to be belonging to *backward class*, rather she claimed her appointment against *general category*, it is not permissible for her to raise a claim now that she ought to have been given benefit of reservation for the purpose of selection and appointment to the post of Sub-Inspector of Police. We have kept in mind, in this regard, the fact that the candidates were required to fill up separate application forms, after having been found fit in the physical test/examination, for taking written test, which was conducted by the Commission. In the said application form, the appellant described herself as a candidate belonging to *general category*.

12. Coupled with the above, we cannot ignore the fact that the process of selection was concluded way back in the year 2008, whereas the appellant raised the dispute in the year 2011. Interference with the result of the selection process, at such a belated stage, will cause serious complications and would, therefore, not be reasonable.

13. We therefore do not find any infirmity in the order passed by learned Single Judge or any illegality in the decision of Commission as communicated to the appellant through letter dated

11.12.2012.

14. Having found no merit in this appeal, the same is dismissed.

15. There shall be no order as to costs.

(I.A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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