

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3405 of 2014

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Suresh Kumar Sharan @ Suresh Pd. Yadav, son of Sri Nageshwar Prasad,
resident of Village - Mahesh Chhapra, P.S. - Maker, District - Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Department of Law, Govt. of Bihar, Patna.
3. The Joint Secretary, Department of Law, Govt. of Bihar, Patna.
4. The District and Sessions Judge, Chhapra (Bihar).
5. The District Magistrate, Saran, Chhapra (Bihar).
6. The Superintendent of Police, Chhapra.
7. Sri Ravindra Prasad Mandal, S/O Kameshwar Pd Rai, resident of Mahesh Chapra, P.O. Bagha Koal, P.S. Maker, District Saran Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Shally Kumari

For the Respondent/s : Mr. Ajay Kumar Sharma, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

2 07-01-2015 Heard the parties.

The petitioner, an Advocate of the District Court, Saran at Chapra, has questioned an order bearing Memo No.753 dated 29.1.2014 issued under the signature of the Joint Secretary, Department of Law, Government of Bihar, whereby the appointment of the petitioner as a Special Public Prosecutor, Excise Act, District Court, Saran at Chapra has been cancelled *inter alia*, on grounds that the petitioner had suppressed to mention his involvement in a criminal case in the bio-data.

Ms. Shally Kumari has appeared for the petitioner and the State is represented by Mr. Ajay Kumar Sharma, learned Assisting Counsel to Principal Additional Advocate General.



Annexure-1 to the writ petition is the bio-data of the petitioner and column 8 thereof requires the petitioner to give information whether he had been made accused in any criminal case and if the answer was in affirmative, then the petitioner was required to give the details.

It is argued by learned counsel for the petitioner that although the petitioner was involved in a criminal case but the criminal case so instituted against the petitioner resulted in his acquittal vide judgment and order of the Judicial Magistrate, 1st Class, Saran at Chapra dated 1.6.2007 passed in G.R. No.2854 of 2004/Tr. No.1825 of 2005 placed at Annexure-9 to the writ petition and thus the petitioner had correctly answered in the negative while responding to the question at item no.8.

Learned counsel for the petitioner has relied upon a judgment of the Supreme Court reported in **2011(2) PLJR 196 (S.C.) (Commissioner of Police vs. Sandeep Kumar)** to submit that the respondents should have taken a more lenient view of the matter specially in the circumstances that the petitioner had been acquitted in the criminal case.

I have heard learned counsel for the parties and perused the records and in the opinion of this Court since the bio data required the petitioner to give details if he was involved in a

criminal case, then he was obliged to do so and his omission to give details would amount to suppression of fact. The judgment relied upon by learned counsel would not come to his rescue for the reasons that there has been a misrepresentation by the petitioner and in which view the discretion exercised by the respondents in rejecting his candidature cannot be faulted.

The petitioner admittedly in response to the query as to whether he was involved in any criminal case has answered in the negative and which is not the correct reflection of the facts rather would amount to suppression of material fact and in this background the order impugned suffers from no infirmity and warrants no interference. The writ petition is accordingly disposed of.

Since indisputably the petitioner stands acquitted in the criminal case and the rejection is only on account of nondisclosure of correct information by the petitioner, hence this order would not be a bar or preclude the respondents from considering the candidature of the petitioner against any future considerations.

(Jyoti Saran, J)

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