

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17404 of 2015

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1. Moni D/o Arvind Sharma resident of vill. - Sabalpur, Babhantoli, P.O. Sabalpur, P.S. Sonpur, District - Saran
 2. Ravi Ranjan Kumar S/o Suresh Pal resident of vill. + Post - Bakhokapur, P.S. Barahra, District - Bhojpur (Ara)
 3. Suraj Kumar S/o Naresh Ram resident of vill. - Sikhar, P.O. Baragandhar, P.S. Muffasil, Gaya

.... Petitioners

Versus

1. The State of Bihar through the District General of Police, State of Bihar, Patna
2. The Principal Secretary, Home Department, Govt. of Bihar, Patna
3. The Central Selection Board (Constable Recruitment) through its Chairman, Sri Sai Tara Complex, IAS Colony Jawaharlal Nehru Marg, Patna
4. The Chairman, Central Selection Board (Constable Recruitment), Sri Sai Tara Complex, IAS Colony Jawaharlal Nehru Marg, Patna

.... Respondents

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Appearance :

For Petitioners : Mr. Rajiv Kumar Singh, Advocate
Mr. Priyadarshi Matri Sharan, Advocate
For the State : Mr. Sunil Kumar, AC to AAG VI
For Selection Board : Mr. Lalit Kishore, Sr. Advocate
Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 18-01-2016

This application, in the nature of *Public Interest Litigation*, has been filed by the petitioners seeking quashing of the final result of Central Selection Board (Constable Recruitment), published in the daily newspaper on 23.06.2015, for appointment to the posts of Constables in the State of Bihar.

The recruitment was held pursuant to Advertisement No. 1/2014 inviting applications from eligible candidates. The grounds for challenge have been indicated in paragraph 2 of the writ application, which are being extracted hereinbelow:-

"(i) Neither cut-off marks nor any merit list as referred to in the impugned result has been published nor the marks obtained by candidates, be it the successful/selected or the unsuccessful candidates, have till date been published anywhere or supplied. Also, before issuance of appointment letter, no medical check-up has been made mandatory, which in itself is arbitrary as also it clearly shows non-application of mind as well as colorable exercise of power by the respondents.

(ii) Moreover, the selection process, in its entirety, suffered with various discrepancies and mass bungling at different stages viz. Written Examination, Screening Test and Physical Efficiency Test (PET) and no appropriate action/enquiry/investigation was held before publication of result.

The action of respondents is illegal, unwarranted, unconstitutional, mala fide as well as bad in law as also in facts. The action of respondents is in violation of Articles 14, 16 and 21 of the Constitution of India as well as against the principles of natural justice."



2. In order to maintain the present application as a *Public Interest Litigation*, statement has been made in paragraph 3 of the writ application that the petitioners have no direct or indirect interest behind filing of this case before this Court. The facts are, however, otherwise. As is evident from the statements made in the subsequent paragraphs of the writ application and the counter affidavit filed on behalf of respondents no. 3 and 4 (Central Selection Board of Constables), the petitioners themselves were applicants for the posts of Constables pursuant to the said Advertisement No. 1/2014. They had participated in the selection process and have not been declared successful. It is the case of the respondent Selection Board that the petitioners secured mark less than the last recommended candidate in their respective categories and, therefore, they have not been declared successful.

3. A preliminary objection has been raised, at the very outset, by Mr. Lalit Kishore, learned Principal Additional Advocate General, appearing on behalf of the respondents, over the maintainability of this application as *Public Interest Litigation*, relying upon the decision of the Supreme Court in the case of **Dr. Duryodhan Sahu and Others v. Jitendra Kumar Mishra and Others**, reported in **(1998) 7 SCC 273**. Reliance has also been placed by him, in this regard, on the decision of the Supreme Court in the case of **State of Uttaranchal v.**

Balwant Singh Chaufal, reported in **(2010) 3 SCC 402**.

4. Mr. Rajiv Kumar Singh, learned counsel representing the petitioners, on the other hand, has placed great reliance on a decision of the Supreme Court in the case of **Tanvi Sarwal v. Central Board Secondary Education**, reported in **(2015) 6 SCC 573**, in support of the maintainability of the present application as a *Public Interest Litigation*. He has submitted, referring to various allegations made in the writ application, that there being large scale bungling and discrepancies in the process of recruitment to the post of Constable at different stages, the entire selection process stood vitiated warranting interference by this Court in exercise of power of judicial review under Article 226 of the Constitution of India. He has submitted, referring to the pleadings in the writ application, that at the time of written examination, several candidates, who had indulged in malpractices, were arrested and as many as 114 were found using unfair means including Hands free and Bluetooth devices. He has also contended that at the time of screening, thousands of candidates were detected to have indulged in unfair means, which was reported through various newspapers and some FIRs were also lodged. Further, at the time of Physical Efficiency Test (PET), some of the persons were arrested who were found participating in the test in place of genuine candidates.



5. We find force in the preliminary objection raised on behalf of the State of Bihar over maintainability of the present application as *Public Interest Litigation* as, admittedly, the petitioners had participated in the process of selection and it is only after they have been declared unsuccessful that they have filed the present application raising their personal grievance alleging large scale discrepancies in the process of selection. Reliance placed by learned counsel for the petitioners on the decision of the Supreme Court, in the case of **Tanvi Sarwal** (supra), in support of the plea of maintainability of the present application, is wholly misconceived. The facts of the case, in **Tanvi Sarwal** (supra), were entirely different, where the allegation was to the effect that 90 answer keys were transmitted to the candidates during the examination in consideration of substantial amount of money. In addition to this, there were other allegations disclosing serious discrepancies in the course of the process of selection. In the case of **Tanvi Sarwal** (supra), the Supreme Court entertained several writ applications filed, under Article 32 of the Constitution of India, by the aggrieved persons raising their personal grievance. The question of maintainability of *Public Interest Litigation* for personal grievance was not at all involved in the said case.

6. In our view, Mr. Lalit Kishore, learned PAAG, is right in his submission that this writ petition, which has been

brought in the nature of *Public Interest Litigation*, is an abuse of the process of the Court. The Supreme Court, in the case of **Balwant Singh Chaufal** (supra), referring to its previous decisions, has observed that the forum of *Public Interest Litigation* should not be allowed to be misused or abused by unscrupulous persons for their personal gain.

7. We may refer to the Supreme Court's decision in the case of **Kusum Lata v. Union of India [(2006) 6 SCC 180]**, wherein the Supreme Court issued, while dealing a Public Interest Litigation, a note of caution to the courts, by observing as follows:-

"13. Public Interest Litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest, an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta"

8. The above observations of the Supreme Court,

in the case of **Kusum Lata** (supra), have been subsequently applied to the case of **Holicow Pictures (P) Ltd. v. Prem Chandra Mishra [(2007) 14 SCC 281]**.

9. We have no hesitation in coming to the conclusion that the dispute, in the present *Public Interest Litigation* being related to service matter, cannot be entertained in a PIL proceeding, because of the decisions in the cases of **Girjesh Shrivastava vs. State of Madhya Pradesh [(2010) 10 SCC 707]**, **Hari Bansh Lal vs. S P Mahto [(2010) 9 SCC 655]**, **Ashok Kumar Pandey vs. State of West Bengal [(2004) 3 SCC 349]**, **Dattaraj Nathuji Thaware vs. State of Maharastra & Ors. [(2005) 1 SCC 590]**, **Duryodhan Sahu vs. Jitendra Kumar Mishra [(1998) 7 SCC 273]** and **R K Jain vs. Union of India [(1993) 4 SCC 119]**.

10. Upon perusal of the materials on record and considering the submissions advanced on behalf of the parties, we have noticed that the petitioners are seeking cancellation of the selection process mainly on the plea that the State-respondents have taken various action against many of the candidates, who were found using unfair means in the process of selection. This, in our considered view, cannot be a ground for interference with the process of selection; rather, it shows that the authorities were vigilant, because of which the discrepancies and malpractices could be detected.

11. In view of the discussions and the factual aspects as noted above and, on consideration of the rival submissions advanced on behalf of the petitioners and the State of Bihar, we find no other option, but to dismiss this application as, in our considered view, a dispute, relating to service matter, cannot be agitated in a *Public Interest Litigation* proceeding. The writ petitioners having themselves participated in the process of selection, they cannot, in the facts and circumstances of the present case, maintain the present application as a *Public Interest Litigation*. This, in our view, is an abuse of the process of PIL forum. We would have considered imposing heavy costs; but have restrained ourselves in the peculiar facts and circumstances of the present case.

12. This application stands dismissed accordingly.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

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