

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3069 of 2013

=====

1. Ram Ashok Paswan S/O Sri Amirak Paswan Resident Of Village And P.O- Mor,
P.S- Mokama, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Begusarai.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh,
Mr. S.K. Ranjan, Advocates.
For the BPSC : Mr. Sanjay Pandey, Advocate.
For the State : Mr. Pravin Kumar Verma, AC to SC 26

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-03-2016

Heard the parties.

2. In the present writ petition, petitioner has prayed for issuance of a writ in the nature of mandamus commanding the respondent authority to appoint him on the appropriate post as he has been selected by the Bihar Public Service Commission (hereinafter referred to as “the Commission”).

3. The Commission has invited application through advertisement no. 46/98 for the selection and appointment of Class III posts through Ist Regional Office Competition Examination against 137 posts in the district of Begusarai. The petitioner and others have applied against the said vacancy. After passing the PTE, application was invited by the successful

candidates to appear in the main examination. Accordingly the petitioner appeared and was declared successful. He appeared before the District Magistrate, Begusari on 27.12.2003 along with his original relevant paper for verification of his document.

4. It appears from the record that the District Magistrate, Begusarai received an information that with the connivance of local staff some candidates have changed their respective photographs and requested to verify the photographs from original applications and give him guideline. The Commission vide letter no.267 dated 31.12.2003 sent its report stating therein that out of 137 candidates only one candidate whose Roll No. being 194977 was reported to be forged and rest 136 candidates were found genuine. Accordingly the petitioner and others appeared on 27.12.2003 and as per instruction candidates were asked to appear for joining on 4.1.2004.

5. Petitioner appeared on 4.1.2004 for receiving his appointment letter but instead, petitioner was arrested and was sent to jail on 5.1.2004 on the ground that his application was changed and he was impersonated. Accordingly a case was registered as Begusarai Nagar P.S. Case No.5 of 2004 for offences under Sections 419, 420, 465, 468, 471, 120(B) of the Indian Penal Code and Section 3 of the Examination Act.

6. The trial court in absence of any evidence has declared him innocent and accordingly was acquitted and was discharged from bail bond.

7. The State being aggrieved by the aforesaid order has also filed appeal vide Cr. Appeal No.155 of 2012. The appellate court in absence of evidence affirmed the order of the trial court.

8. On the basis of the trial court judgment which was affirmed by the appellate court petitioner filed his application for joining as he has been declared innocent and he was declared successful in the main examination.

9. Learned counsel for the State submits that even though the petitioner has been acquitted in the criminal case where charges have to be proved beyond reasonable doubt but that principle does not apply in departmental proceeding and internal enquiry. Further submitted there was overwhelming materials which indicate that petitioner has manipulated the record and was impersonated by other persons and his selection is completely a fraud.

10. Having considered the rival contentions of the parties it appears that though the criminal case was lodged against the petitioner but the respondent did not take any steps in pursuing the case as State did not produce any witness to prove the case

against the petitioner. Even if the acquittal is recorded by the trial court the internal enquiry cannot be held to bar especially where prosecution did not take step for production of witness.

11. In this view of the matter, the Collector, Begusari is directed to hold enquiry, examine the case of the petitioner with available materials and pass a reasoned order in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

12. With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

U			
---	--	--	--