

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3926 of 2013

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1. Dinesh Kumar Son Of Late Lutan Mahto Resident Of Village- Ambedkar Nagar, Nurjamapur, Police Station- Balia Lakhminiya, District- Begusarai

2. Rajesh Kumar Son Of Late Nand Kishore Prasad Resident Of Village- Bara Khurd Bigha, Police Station- Nursarai, District- Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna

2. The Principal Secretary, General Administration Department, Government Of Bihar, Patna

3. The District Magistrate, Begusarai

The Bihar Public Service Commission through its Secretary

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prasant Kumar,
Mr. Sunil Kumar Singh, Advocate.

For the State : Mr. S.K.Saraf, AC to GP 18

For BPSC : Mr. Sanjay Pandey,
Mr. Binod Kumar Mishra, Advocates

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 22-02-2016

Heard learned counsel for the petitioners and learned counsel for the State as well as Bihar Public Service Commission.

2. In the present writ petition, petitioners are seeking relief for issuance of a writ in the nature of mandamus commanding the respondents to appoint the petitioners on Class III posts in the district of Begusarai as per the recommendation of Bihar Public Service Commission (hereinafter referred to as 'the Commission') vide letter no.1037 dated 15.1.2003.

3. The Commission has issued a notification in daily



newspaper “Aaz’ inviting applications from eligible candidates for appearing in the First Regional Competitive Examination, 1998 for appointment on Class III post in the regional offices of State of Bihar. Petitioners along with others have applied against the said advertisement. They appeared in the PT examination on the scheduled date and time. After its clearance they appeared in the main examination and finally the Commission recommended 136 candidates out of 145 successful candidates including the petitioners in order of merit for appointment on the Class III posts vide Memo No.1037 dated 15.1.2003. Petitioners were placed at sl.no.9 and 74 in the aforesaid letter.

4. In view of the recommendation, the Collector vide memo no.1607 dated 19.12.2003 directed the petitioners and others to appear at Kargil Bhawan Samharnalaya, Begusarai on 27.12.2003 at 11 A.M. with relevant testimonials. As the petitioners arrived there, the police was waiting for them and they were arrested on the charge of impersonation, forgery and cheating and an FIR was lodged against them vide Begusarai Town P.O.S. Case no.5 of 2004. The police submitted charge sheet, trial began but no witness was brought to prove the charge, which led to acquittal of the case. Appeal was filed by the State which was dismissed.

5. Learned counsel for the petitioners submits that at present

there is no imputation against the petitioners with regard to impersonation and forgery. They cannot be deprived from the same, placing reliance on the letter dated 16.1.2013 by which the District Magistrate, Lakhisarai on the identical circumstance issued appointment letters to some candidates.

6. In the present case order of acquittal has been passed because no witness was brought by the State to prove the charge. Even if the acquittal is recorded by the trial court the internal enquiry cannot be kept at bay. The acquittal has been recorded on account of non-production of witnesses. It is unfortunate that police has registered the case but not followed properly as step was not taken to bring the witnesses to support the charge.

7. In this view of the matter, the Collector, Begusari is directed to examine the case of the petitioners with regard to affect of acquittal 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.

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

Vinay/-

(Shivaji Pandey, J)

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