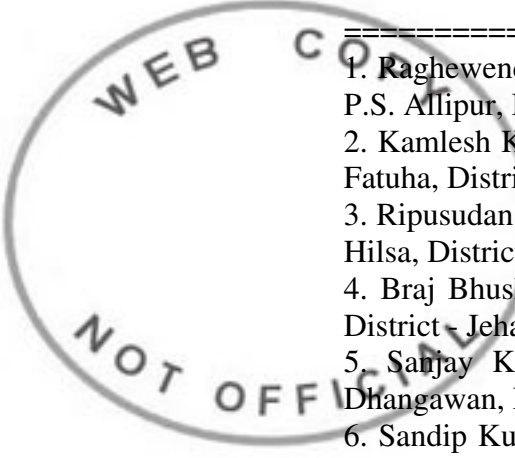


IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1121 of 2016

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1. Raghwendra Kumar Son of Binod Bihari Sharma R/o village + Post - Bohiya, P.S. Allipur, District - Gaya
 2. Kamlesh Kumar Sinha Son of Brajballav Sinha R/o village - Balwa, P.O. + P.S. Fatuha, District - Patna
 3. Ripusudan Kumar Son of Jaykant Sharma R/o village + Post Babhan Barui, P.S. Hilsa, District - Nalanda
 4. Braj Bhushan Pandey Son of Ramsakal Pandey R/o village + Post Patariya, District - Jehanabasd
 5. Sanjay Kumar Son of Chandradeo Prasad R/o village - Deoghra, P.O. Dhangawan, District - Jehanabad
 6. Sandip Kumar Srivastav Son of Bhrigunath Sharan C/o Manoranjan Verma, in Front of Satyawati Complex Main Road, Kankarbagh, District - Patna
 7. Shailesh Kumar Son of Ram Vijay Singh R/o village - Deriniwas, B.N. Jha Road, Gaya, District Gaya
 8. Shio Kumar Singh Son of Hargun Singh R/o village + P.O. + P.S. Tiyar, District - Bhojpur
 9. Manoj Kumar Son of Vinay Mishra R/o Ladugama, P.S. Benipatti, District - Madhubani
 10. Ajit Kumar Singh Son of Shiv Shankar Singh R/o vill. - Narayanpur, P.S. Sandesh, District Bhojpur at Ara
 11. Arun Kumar Son of Ramshray Prasad R/o village - Latta, P.S. Pauthu, District - Aurangabad
 12. Ritesh Kumar Saxena Son of Krishna Murari Saxena R/o village - Birsa Adivasi Colony, P.S. Alamganj, District - Patna
 13. Navneet Kumar Son of Sheo Chandra Prasad Jaiswal R/o village - Maner, P.S. Maner, District - Patna
 14. Praveen Kumar Thakur Son of Ramjee Thakur R/o village - Naya Bazar, P.S. Saharsa, District - Saharsa
 15. Dharmendra Kumar Son of Bhagwan Sharma R/o village - Sahorachak, P.S. Makhdumpur, District - Jehanabad
 16. Navin Kumar Paswan Son of Briksh Prasad Paswan R/o village - Bardaha, P.S. Khudaganj, District - Nalanda

.... Appellant/s

Versus

1. The Bihar Staff Selection Commission through its Secretary, Veterinary College, Patna 800014
2. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna 800014
3. The Secretary, Bihar Staff Selection Commission, Veterinary College, Patna 800014
4. The State of Bihar through Home Secretary, Government of Bihar, Patna
5. The Principal Secretary, General Administration Department, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dinu Kumar, Adv.
Mr. Rajesh Kumar Singh, Adv.
For the State Respondent/s : Mr. Abbas Haider, SC-16
For B.S.S.C. Mr. Kamla Kant Upadhyaya, Adv.
Mr. Chandra Bhushan, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
JUDGMENT AND ORDER
ORAL
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 14-07-2016

I.A. No.5575 of 2016

Heard Mr. Avinash, learned Counsel, appearing on behalf of the intervener appellants.

This interlocutory application has been filed by the intervener for impleading them as appellants in the present appeal.

The applicants cannot be impleaded in the present appeal inasmuch they are neither a necessary nor proper party for adjudication of the *lis*.

In view of the above and in the interest of justice, this interlocutory application is rejected.

I.A. No.5575 of 2016 stands disposed of.

L.P.A. No.1121 of 2016

Pursuant to an advertisement, published on 21.09.2004, by the Bihar Staff Selection Commission, inviting applications to fill



up 223 vacant posts of Sub-Inspectors of Police, in the State of Bihar, many persons applied. One of the conditions specifically mentioned in the advertisement was that a candidate can apply only in one region. In view of the fact that more than the advertised posts were filled up by the Government during the process of selection, writ petitions came to be filed before this Court. The matter was ultimately carried to the Supreme Court in S.L.P. (Civil) No.1240-1244/2011. By order, dated 02.02.2011, the Supreme Court issued the following directions:-

“In the peculiar facts and circumstances of these cases, we direct the Bihar Staff Selection Commission to hold fresh examinations for the 299 posts of Sub Inspectors of Police and only the appellants, who were writ petitioners before the High Court of Judicature at Patna, whose cases were adjudicated upon or are pending before the High Court (Total 223 only as per the list given in Court by Mr. Ranjit Kumar, learned senior counsel) would be at liberty to appear in the physical and written examinations.”

On the basis of various applications made, the order, dated 02.02.2011, was, later on, modified by another order, dated 28.22.2011, which reads as follows:-

“We have heard learned counsel for the parties.

Applications seeking permission to file application for

directions are allowed.

“By the aforesaid order dated 2nd February, 2011, we had permitted only 223 candidates to appear in the examination. But now, after perusing the applications and hearing the counsel for the parties, we deem it appropriate to permit all these applicants who are similarly situated and also all those candidates who are eligible, to appear in the examination for 299 posts of Sub Inspector of Police. Uniform standard would be made applicable to all the candidates and all the candidates appearing for the above post will have to undergo similar physical and the written examination.”

Inasmuch as the appellants herein were applicants pursuant to the advertisement, dated 28.06.2011, published in compliance of the directions issued by the Supreme Court, as mentioned above, but they were not allowed to participate pursuant to the advertisement, which was published, on 28.06.2011, the appellants came to this Court with the writ petition, made under Article 226 of the Constitution of India, giving rise to 11905 of 2015, seeking direction to be issued to the respondent Bihar Staff Selection Commission to permit them to participate in the process of selection. As the writ petition has been dismissed by order, dated 22.04.2016, this appeal has been preferred.

Heard Mr. Dinu Kumar, learned Counsel, appearing on behalf of the appellants, and Mr. Kamla Kant Upadhyaya, learned Counsel, appearing on behalf of the respondent Bihar Staff Selection Commission. Heard also Mr. Abbas Haider, learned Standing Counsel No.16, appearing on behalf of the State-respondents.

While considering this appeal, it needs to be pointed out that all the writ petitioners, appellants herein, except petitioner appellant No.10, had applied for selection in more than two regions and, hence, their candidature was rejected on the ground that they were disqualified. As far as the petitioner-appellant No.10 is concerned, he did not physically qualify and, therefore, he was held to be ineligible to participate in the written examination.

On the basis of the facts, as noted above, the learned single Judge took the view that the petitioners-appellants herein were not qualified to participate in the written examination.

In view of the fact that a person, who was already ineligible to participate in the written examination, could not have been allowed to appear in the written examination, it clearly follows that since the appellants stood disqualified for the reasons stated hereinabove, the learned single Judge's conclusion that the appellants had no case, cannot be faulted at. We, therefore, find no

infirmity, legal or factual, with the conclusion as arrived at by the learned single Judge.

In the result, and for the foregoing reasons, this appeal is not admitted and is, accordingly, dismissed.

There shall, however, be no order as to costs.

The presence of the Secretary, Bihar Staff Selection Commission, is hereby dispensed with.

(I.A. Ansari, ACJ)

(Anjana Mishra, J)

K.C.jha/-

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CAV DATE	
Uploading Date	
Transmission Date	