

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.735 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 355 of 2013
Along with
Interlocutory Application No.3740 of 2014

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1. Sanjeet Kumar Roy, S/O Sri Rajendra Roy, R/O Village- Baghwa, P.O.- Gapalpur, P.S.- Simri Bakhtiyarpur, District- Saharsa.
2. Arun Kumar, S/O Satnaryan Sharma, At Present Residing C/O Jagat Narayn Sharma, Desh Ratn Path, Vijaynagar, Hanuman Nagar, Patna.
- Writ petitioners- Appellant/s
- Versus
1. Bihar Staff Selection Commission through its Secretary Veterinary College, Patna- 800014.
2. The Chairman, Bihar Staff Selection Commission Veterinary College, Patna- 800014 Patna High Court CWJC No. 141 of 2013(17) dt. 13-12-2013.
3. Union of India through its Secretary Personnel Department, Government of India, New Delhi.
4. The Secretary Department of Personnel and Training, Government of India, New Delhi.
5. The Director, Central Bureau of Investigation, New Delhi.
6. The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
7. The Principal Secretary, Home Department, Government of Bihar, Patna.
8. The Principal Secretary General Administration Department, Government of Bihar, Patna.
9. The Director General-cum-Inspector of Police, Bihar, Patna.
- Respondents 1st Set/ Respondents.
10. Suman Kumar Sinha, son of Tarkeshwar Prasad, resident of Ragni Bhawan, Mohalla- Bari Pahari, P.O.- Soha Sarai, P.S. Laheri, District- Nalanda, Bihar.
11. Pawan Kumar, son of Bhubneshwar Paswan, resident of Village- Sandalpur, P.S. Kasim Bazar, District- Munger, Bihar.
12. Vibha Kumari, care of Dr. Kapil Deo Yadav, resident of Village- Sandalpur, P.S. Kasim Bazar, District- Munger, Bihar.
13. Amarendra Kumar, son of Chandra Mauleshwar Mishra, resident of Mohalla- Agarwal Tola, P.O. Kotwali Chowk, P.S.- Madhubani, District- Madhubani, Bihar.
14. Pramod Bharti, son of Jagdish Prasad, resident of Village- Itajang, P.S.- Rahui, District- Nalanda.
15. Saroj Kumar Singh, son of Late Rajukishore Singh, resident of Village- in front of M.V. Coolege, Charitravan, Buxar.
16. AAnil Kumar Singh, son of R. N. Kumar, resident of Village- Dilawarpur (Khutheria) via Mahri, P.S.- Kesaria, District- East Champaran, Bihar.
17. Harishankar Kumar, son of Late Aditya Narayan Singh, resident of Village- D- 10, Magadh Vihar, Gardanibagh, Patna- 800002, Bihar.
18. Sunil Kumar, son of Gurusharan Prasad Sinha, resident of Village- Nauratanpur, Patna- 800001.
- Respondents 2nd Set./Intervenors.
19. Manoj Kumar Sinha, S/O Sri Basudeo Prasad, R/O Village- Baldha, P.O.- Damodarpur, P.S.- Nagarnausa, District- Nalanda.
20. Manoj Kumar, S/O Sheo Kumar Prasad, R/O Mohalla- Mission Compound

Mahadeva, Siwan- 841226.

21. Sanjeev Kumar, S/O Sri Ashok Kumar, R/O Mohalla- Arra Garden Road,
Bailey Road, Patna, P.S.- Rupaspur, District- Patna- 14.

....Writ petitioners- Respondents 3rd Set.

Appearance :

For the Appellants	:	Mr. Kumar Kaushik, Advocate
For the Respondents-State	:	Mr. Alok Ranjan, A.C. to G.A.6
For Bihar Staff Selection Commission:	:	Mr. Prabhat Kumar Singh, Advocate
For U.O.I.	:	Mrs. Nivedita Nirvikar, C.G.C.
For the C.B.I.	:	Mr. Sanjay Kumar, S.C. C.B.I.
For the respondent Nos. 11 to 18	:	Mr. Rajani Kant Padey, Advocate
		Mr. Amit Shrivastava, Advocate
		Mr. Girish Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 20-10-2016

Re.: Interlocutory Application No.3740 of 2014

The application is for condonation of delay of 13 days in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.735 of 2014

The present Letters Patent Appeal arises out of an order passed by the learned Single Bench of this Court on 13th December, 2013 in CWJC No.355 of 2013 whereby the claim of the appellants to

re-evaluate objective type questions remained unsuccessful.

2. The appellants were the applicants in response to an advertisement published by Bihar Staff Selection Commission for the post of Enforcement Sub Inspector in the department of Transport. The result of multiple choice objective type question was declared on 30th December, 2012. Such test consisting of two sets of 200 questions of 100 marks each for General Knowledge and General Studies as well as Bihar Motor Vehicles Act and Rules.

3. The grievance of the appellants is that a notice was published by the Commission on 27th September, 2012 inviting objections from the candidates who appeared in the examination with respect to correctness of the model answers published on the website of the Commission for both the papers. On the basis of objections filed, the model answers were revised and thereafter the result was published on 30th December, 2012. It is thereafter, candidates equal to 2.5 times number of vacancies were short listed for interview and for physical test.

4. The learned Single Bench dismissed the writ application relying upon the judgments of the Hon'ble Supreme Court in Himachal Pradesh Service Commission v. Mukesh Thakur and another, (2010) 6 SCC 759, and in Rajesh Kumar and others v. State of Bihar and others, (2013) 4 SCC 690 as well as the decision of the Division Bench of this

Court in L.P.A. No.98 of 2013 (Lokpal and others v. Bihar Staff Selection Commission and others) decided on 19th June, 2013. It was held that the judgment with regard to wrong questions and model answer key after being reviewed by the Committee of expert cannot be made subject to matter of judicial review again.

5. Learned counsel for the Commission refers to another Division Bench judgment of this Court reported as Ravindra Kumar Singh Vs. High Court of Judicature at Patna, 2016 (1) PLJR 865, wherein the Court held to the following effects:-

28. From the pleadings on record, it is evident that the Appointment and Selection Committee, upon having received various representations on incorrect framing of questions and incorrect model answers, decided to delete two questions from the scope of evaluation and alter eight model answers for the purpose of correct evaluation of respective answer-sheets.

29. The question, which we are required to answer, in the present proceedings, in view of rival submissions made on behalf of the parties, is as to whether, while exercising power of judicial review in a proceeding under Article 226 of the Constitution of India, this Court should sit over the decision of the Selection and Appointment Committee on the aspects of framing of questions and preparation of model answers.

30. The answer to the question posed above is necessary in order to deal with the grievance of the petitioners of alleged violation of their right of fair selection in the competitive examination in question. To put it a little differently, the question is as to whether the writ petitioners have been able to make out a case by making specific pleading that impugned action of wrong framing of questions/model answers had, in fact, adversely affected their right in any manner? In order to answer this question, it has to be kept in mind that the petitioners knew the questions.

It is not their case that the question papers were not in their possession. They also knew as to what answers they had given to respective questions.”

6. In view of the judgments of the Supreme Court in the cases of Mukesh Thakur and Rajesh Kumar (supra) as considered by this Court in Ravindra Kumar Singh’s case (supra), we find that the appellants cannot be permitted to dispute the opinion of the experts in finalizing the model answer key. The re-evaluation of the answer sheets is beyond the scope of judicial review.

7. Consequently, we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	N. A. F.R.
CAV DATE	N. A.
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