

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13143 of 2015

1. Anjeet Kumar son of Shri Uma Shankar Sah, resident of village- Baletha Tola Kurami Hata, P.O. Pakwalia, Police Station- Siwan Mufassil, District- Siwan, at present posted and working as Trained Home Guard in the office of Police Inspector, Maharajganj Circle, Maharajganj, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Jail) Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Director General of Police, Jail & Reforms Services, Bihar, Patna.
4. The Inspector General of Police, Jail & Reforms Services, Bihar, Patna.
5. The Bihar Staff Selection Commission through its Secretary, Veterinary College, Patna-800014.
6. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna-800014.
7. The Secretary, Bihar Staff Selection Commission, Veterinary College, Patna-800014.

.... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra Mr Sita Ram Yadav
For the State	:	Mr. Rohit Mishra, AC to AAG 8
For the Commission	:	Mr Kamla Kant Upadhyay Mr Chandra Bhushan Das

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT

Date: 04-07-2016

Petitioner was one of the applicant for the post of Warden from Home Guard category for which an advertisement was issued earlier by the Bihar Staff Selection Commission. Petitioner claims that he underwent the process of selection and even qualified in the written examination. However, he was not permitted to participate in the medical examination for final selection and, therefore, the writ application for appropriate direction or mandamus.

Counsel for the Staff Selection Commission as well as

the State have filed counter affidavit. There is no dispute on the facts. The problem is in understanding the facts and perceiving it on behalf of the petitioner.

According to Staff Selection Commission, based on the declaration made in the application form even with regard to the caste and reservation, the benefit of reservation was required to be given to the eligible candidates. In the case of the present petitioner, the petitioner declared his caste in the category of MBC (Most Backward Class). Along with his application, he had produced a caste certificate of backward category of the year January 2006. Since there was a mismatch in the caste certificate as well as the declaration in the application form of the petitioner, which was not a standalone kind of case, by virtue of Annexure- 10, all such candidates including the present petitioner, whose roll numbers figure in Annexure- 10, were directed to produce a fresh caste and creamy layer certificate between 12.1.2015 to 27.1.2015. Petitioner did submit yet another caste certificate, which is Annexure- 11, which indicates the petitioner's caste under the backward category. This caste certificate was submitted by the petitioner along with Annexure- 12, dated 21.1.2015. After its submission, since the petitioner's caste declaration did not match with the certificate, he was not given the benefit of reservation in terms of the declaration made by him. He obviously lost out in the merit position with regard to general category candidate, as he was

treated to be so.

A copy of the application form of the petitioner is available as Annexure- R/1. From the endorsement made by the office after the verification of certificate, it is evident that the petitioner had declared himself to be MBC but he had produced certificate of backward category. The fault lies with the petitioner and not with the Staff Selection Commission.

There is no other mystery involved in the non- selection or not allowing the petitioner to participate in the medical examination, on the basis of his written examination. The explanation sought to be offered by the counsel now that the word 'MBC' is a typing mistake on part of the petitioner cannot be accepted because Staff Selection Commission has no mechanism to find out whether a candidate has committed a typing mistake or has made a truthful declaration with regard to his caste with the object of drawing advantage of reservation. A candidate will have to be pinned down with the declaration made by him and mistakes, even if bona fide, the Court or authority cannot permit him to take advantage of it now.

Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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