

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8743 of 2017

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Pradip Kumar Mahto, son of Sri Hitlal Mahto, resident of village & P.O. Jankinagar, P.S. Jankinagar, District Purnea- 854102, Bihar

.... Petitioner

Versus

1. The Chairman, Bihar State Staff Selection Commission, P.O. Veterinary College, Patna- 800 014
2. The Secretary, Bihar State Staff Selection Commission, P.O. Veterinary College, Patna- 800 014
3. The Additional Secretary, Bihar State Staff Selection Commission, P.O. Veterinary College, Patna- 800 014
4. The State of Bihar through the Secretary cum Commissioner, Home Department, Govt. of Bihar, Old Secretariat, Patna
5. The Inspector General of Police, Police Headquarter, Govt. of Bihar, Old Secretariat, Patna
- 6.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Adv.
Mr. Sanjeev Shankar, Adv.
For the Respondent/s : Mr. MD. N.H. KHAN, SC1
For the Commission : Mr. Lalit Kishore, Sr. Adv.
Mr. S.S.Sundaram, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-06-2017

Heard Mr. Sanjeev Ranjan, learned counsel for the petitioner and Mr. Lalit Kishore, learned Senior Counsel, appearing for the Bihar Staff Selection Commission alongwith Mr. S.S.Sundaram, learned counsel for the Commission.

The petitioner prays for an appropriate direction to the Bihar Staff Selection Commission (hereinafter referred to as 'the Commission') to accept his candidature against Advertisement No. 511 dated 28.4.2017.



The facts are not in dispute, rather the dispute is whether the application filed by the petitioner against the advertisement has reached the Commission through proper course or not?

It is not in dispute that the petitioner herein was an applicant against an earlier Advertisement No. 704 and which selection process being engulfed with irregularities, the matter after passing through this Court reached the Supreme Court in Civil Appeal No. 2795-2097/2017 and which has been disposed of with the direction to the Commission to carry out fresh selection by permitting the applicants against the earlier advertisement also to participate by grant of age relaxation. It is following the orders of the Supreme Court and clarifications issued subsequently that Advertisement No. 511/2017 has been issued and against which the petitioner has filed his application, a copy of which is placed at Annexure 3 to the writ petition.

While it was submitted by Mr. Kishore, learned Senior Counsel, for the Commission in reference to the notice dated 28.4.2017 at Annexure 1 that the applications had to be sent through Speed Post/ Registered Post but Mr. Ranjan, learned counsel for the petitioner, in reference to a subsequent notice dated 8.5.2017 present at Annexure 2 has submitted that such requirement has been given a go-by and the petitioner in the light of opportunity so granted, has



filed his application on 11.5.2017 vide Annexure 3, which has been duly received at the counter of the Commission.

It is taking note of the circumstances discussed that when this matter was taken up yesterday, Mr. Kishore, learned Senior Counsel for the Commission, sought adjournment to enquire whether the application of the petitioner has been received in the Commission and when Mr. Kishore, on instructions, accepts that the application has been received but not through the required process and should have been sent by Registered Post/ Speed Post in terms of Annexure 1 and that is the reason the name of the petitioner was not published in the list of eligible candidates.

Having heard learned counsel for the parties and taking note of the nature of objections raised herein, I am of the opinion that once the order of the Supreme Court substantially allows the applicant against the earlier advertisement to participate in the selection process which has ensued through Advertisement No.511, and even if the notice dated 28.4.2017 prescribed the mode of filing of the application through Speed Post/ Registered Post but taking note of the opportunity extended by the Commission through Annexure 2, which is a notice dated 8.5.2017 allowing the eligible applicants to file their application, once it is not disputed that the application of the petitioner has been received in the Commission then disallowing his



candidature on the technicality of the application not having been received by Registered Post/ Speed Post, specially where eligibility of the petitioner as to his participation on other grounds is not in dispute, the Commission can waive the objection and allow the petitioner to participate in the physical test.

It is stated at the Bar by Mr. Sanjeev Ranjan, learned counsel for the petitioner, that the physical test was to be carried out on 29th and 30th June, 2017 i.e. Yesterday and today and that the State authorities may be appropriately directed to hold the physical test of the petitioner as a special case.

In the circumstances, respondent no.5, the Inspector General of Police, Police Headquarter, would issue appropriate orders to the concerned district authorities for holding physical test of the petitioner as a special case.

Let it be noted that the order passed on the present writ petition is not to be treated as a precedence.

Since the order is being passed in presence of the learned counsel for the Commission and the State, they would appropriately instruct the appropriate authorities of the Commission and the State for allowing the petitioner to participate in the physical test.

The writ petition is allowed.

Let a copy of this order be handed over to the learned



counsel for the petitioner, learned counsel for the Commission and
Mr. N.H.Khan, learned SC-1, for strict compliance.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.06.2017
Transmission Date	NA

