

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17402 of 2016

- =====
1. Jawahar Lal Ram, son of Damodar Ram, resident of village - Lakhnour, P.S. - Rupauli, District - Purnea.
 2. Rajnikant, son of Late Sarveshwar Prasad Singh, resident of village - Rupauli, P.S. - Rupauli, District - Purnia.
 3. Lakshman Rawat, son of Late Satyanarayan Rawat, resident of village- Gopalpur, P.S. - Chanan, District - Lakhisarai.
 4. Sanjay Ram, son of Sri Ramdev Ram, resident of village - Manjhion, P.S. - Belown, District - Kaimur (Bihar).
 5. Pramod Kumar Singh, son of Sri Surendra Prasad Singh, resident of Mohalla - Pokhara Muhalla, R. N. College Road, P.S. - Town Hajipur, District - Vaishali.
- Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police), Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Bihar Staff Selection Commission, Patna through its Secretary.
4. The Chairman, Bihar Staff Selection Commission, Patna.
5. The Secretary, Bihar Staff Selection Commission, Patna.
6. The D.I.G. (Police), Purnia at Purnia.
7. The D.I.G. (Police), Shahabad at Dehri-On-Sone.
8. The D.I.G. (Police), Munger at Munger.
9. The D.I.G. (Police), Saran at Chapra.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Adv. with Mr. Satyam Shivam Sundaram, Adv.
For the Respondent-State	:	Mr. Prabhat Kumar Verma, AAG-3 Mr. Saroj Kr. Sharma, AC to AAG-3
For the Respondent-BSCC	:	Mr. Kamal Kant Upadhyay, Adv. Mr. C.B. Das, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-03-2017

Heard Mr P.K. Shahi, learned counsel appearing for the
petitioners and Mr. Prabhat Kumar Verma, learned Additional
Advocate General No.3 for the State.

This matter relates to selection and appointment to the
post of Sub-Inspector of Police in the State for which a selection



process was initiated as back as in the year 2004 vide Advertisement No.704 of 2004 and is yet to be completed. Certain irregularities having been committed in the selection process that the matter after being contested before this Court without success, reached the Supreme Court in Civil Appeal Nos.1240-1241 of 2011 and was disposed of in the following terms:

“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.

The schedule of examinations would be decided by the respondents and all those who pass the physical and written examinations would be appointed by the respondents and for the remaining posts of Sub Inspectors, a fresh advertisement would be issued by the Staff Selection Commission and appointments would be made in accordance with law.

We hope and trust that the entire process of fresh selection would be completed expeditiously, in any event, within six months from the date of communication of this order.

With these observations, these appeals are disposed of, leaving the parties to bear their own costs.

All the pending I.As. are dismissed.”

Copies of the orders passed by the Writ Court and the Division Bench are present at Annexure-2 series while the judgment and order of the Supreme Court is annexed at Annexure-



3. Since the order of the Supreme Court restricted the relief to the appellants before the Court that certain applications were filed for impleadment and was disposed of in the following terms:

“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.

With these observations and directions, all the applications are disposed of.”

A copy of the order of the Supreme Court is present at Annexure-5. It is following the judgment and order of the Supreme Court aforementioned that a fresh advertisement was issued on 26.6.2011 bearing Advertisement No.511/2011 and since some objections were being raised as to the participation of the applicants who were applicants in the previous advertisement that the matter reached CWJC No.10478 of 2016 and the writ petition was disposed of in the following terms:

If there is material to show the participation of these petitioners in terms of the previous advertisement, then keeping in mind the direction issued by the Hon’ble Apex Court, they should be permitted to participate in the process of selection starting with physical test which every candidate has to undergo. The question of participation in the written examination will arise only after passing



physical test.

Giving the benefit of doubt, therefore, the writ applications are allowed with a direction upon the respondents that an opportunity for participation in the physical test would be given to the petitioners. The outcome thereof will decide the fate of the petitioners. The respondents will make sure that there is no case of impersonation or substitutes, who are pushed into the system during the physical test, which is going to be conducted with regard to these petitioners.”

The petitioners herein except the petitioner no.3 do submit in reference to the information present at Annexure-10 series and Annexure-11 to the supplementary affidavit that all these petitioners except petitioner no.3 were applicants in the selection test that followed vide Advertisement No.704 of 2004 and had participated in the physical test. It is thus the prayer of the petitioners that since the order of the Supreme Court referred to above would govern all those candidates who were applicants in response to Advertisement No.704 of 2004 and had participated in the physical test, these petitioners as well are entitled to participate in the selection process that has ensued following the second Advertisement No.511/2011 and that they also need be allowed to participate. Such is the submission made by Mr. Shahi, learned senior counsel appearing for the petitioners.

While Mr. C.B. Das, learned counsel appearing for the Bihar Staff Selection Commission has stated at the Bar that the



matter yet remains pending before the Supreme Court as to the selection process initiated and thus the matter be put on hold, Mr. Prabhat Kumar Verma, learned Additional Advocate General No.3 has invited the attention of the Court towards the statement of the Bihar Staff Selection Commission as found at paragraph 7 of the counter affidavit to submit that the petitioners have been disqualified from participation in the physical test.

I have heard learned counsel for the parties and I have perused the records and in the nature of the order which this Court proposes to pass I would not be entering into the merits of the case.

That it is admitted that the petitioner no.3 is not eligible to participation, his claim is disposed of.

Now whether or not the remaining petitioners except petitioner no.3 were applicants in response to Advertisement No.704 of 2004 and whether or not they have qualified in the physical test, in my opinion it is the Bihar Staff Selection Commission, which has to satisfy themselves.

In case what the petitioners have submitted before this Court is correct and they are covered under the orders of the Supreme Court and if they have qualified in the physical test following Advertisement No.704 of 2004, then they do qualify under the orders of the Supreme Court for being permitted to



participate in the selection process so initiated through the Advertisement No.511 of 2011.

In the circumstances so discussed, this writ petition is disposed of with a direction to the Bihar Staff Selection Commission, respondent nos.3 to 5 to satisfy themselves as to the candidature of these petitioners and whether their claim except the petitioner no.3, is covered under the judgment and order of the Supreme Court present at Annexure-3 as modified vide order present at Annexure-5 and in case these petitioners do come within the zone of consideration as per the judgment and orders of the Supreme Court, they should also be allowed to participate in the selection process, except the petitioner no.3.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	29-03-2017
Transmission Date	NA

