

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.305 of 2017

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1. Sujeet Kumar @ Sujit Kumar S/o Late Bhuneshwar Yadav Resident of Village - Chitankhari, P.O. - Saranda, P.S. - Birni, District - Giridih (Jharkhand) at present residing at Mohalla - Kaler, Veer Kunwar Singh Colony, P.S. - Magadh Medical College, Gaya, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner-cum-Secretary, Department of Home, Government of Bihar, Patna.
2. The Collector, District - Gaya.
3. The DIG, Police, Magadh Range, Gaya.
4. The Senior Superintendent of Police, Gaya.
5. The Superintendent of Police, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manisha Prakash, Adv.
For the Respondent/s : Mr. Nadeem Siraj, GP3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 01-05-2017

Heard Ms. Manisha Prakash, learned counsel for the petitioner and Mr. Nadeem Sereaj, G.P.5 for the State.

With the consent of the parties, the matter is being heard with a view to its final disposal at the stage of admission itself.

The petitioner prays for a writ in the nature of mandamus commanding the respondent more particularly the Superintendent of Police, Gaya to recall his order dated 14.7.2005, a copy of which is impugned at Annexure-3 to the writ petition whereby the appointment of the petitioner in the police force was kept in abeyance pending final decision in the succession case by the competent civil court. The petitioner alongside prays for a direction for a regular appointment in



the post of Constable.

The facts are not in dispute and briefly stated is that the petitioner is the son of late Bhuneshwar Yadav, a Driver who died in harness in the year 2002. The petitioner at the relevant stage was a minor and thus following the stipulation present in Police Order No.209 of 1988 that the petitioner was appointed as a child constable vide order No.940/05 dated 8.4.2005, a copy of which is present at Annexure-1 to the writ petition. The petitioner was also issued an identity card vide Annexure-2 and paid salary as a child constable for a few months. In between the time that an issue was raised by one Bhuneshwari Devi claiming to be the legally wedded wife and which led to the issuance of the order dated 14.7.2005 impugned at Annexure-3. The appointment of the petitioner was kept in abeyance pending final adjudication in the succession case. The succession case was decided in favour of the petitioner vide judgment and order present at Annexure-6 declaring his mother Most Shobha Devi as the legally wedded wife of late Bhuneshwar Yadav. Whatever thus was the confusion, stood removed by the judgment and order dated 21.3.2014 of the civil Court present at Annexure-6. Since the stay on the appointment of the petitioner vide Annexure-3 was yet not being recalled that the petitioner after representing before the Sr. Superintendent of Police, Gaya has come before this Court.



It is taking note of the circumstances existing where the dispute whatsoever stood resolved vide judgment and order present at Annexure-6 that this Court adjourned the matter on request made by learned State counsel for seeking instructions on the issue and when the respondents have returned with the counter affidavit enclosing a letter of the Superintendent of police, Gaya seeking guideline from the Director General of Police as to the follow up action on the appointment of the petitioner in view of the adjudication in the succession case. The letter is dated 16.4.2017 and is enclosed at Annexure-C to the counter affidavit. In my opinion, there is no reason for the Superintendent of Police to delay the appointment of the petitioner because the ground assigned by him in the impugned order dated 14.7.2005 has finally drawn in favour of the petitioner vide judgment present at Annexure-6.

In the circumstances discussed and in view of the judgment passed in the succession case present at Annexure-6, the stay on the appointment of the petitioner under the orders of the Superintendent of Police, Gaya bearing Memo No.2979 dated 14.7.2005 has lost its meaning and is accordingly quashed and set aside. Accordingly, the Senior Superintendent of Police, Gaya is directed to take necessary steps for appointment of the petitioner within a period of four weeks from the date of receipt/production of a copy of this order. Though



learned counsel prays for consequential relief but in view of the observation of this Court passed in M.J.C.No.953 of 2003 heard along with Civil Review No. 100 of 2003 and C.W.J.C.No.5857 of 2003 present at Annexure-4 whereby this court while according retiral benefits had restrained the authorities for according any further benefits, I am not persuaded for grant of any consequential benefits.

The writ petition is allowed.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	26.05.2017
Transmission Date	NA

