

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19050 of 2017

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Suraj Kumar, Son of Sri Kailash Prasad Yadav, Resident of Village- Nath Tola Sitakund, Post- Dariyapur, Police Station- Muffasil, District- Munger.

.... Petitioner/s

Versus

1. The Union of India through Principal Secretary, Home Affairs, New Delhi.
2. The General Commandant, C.I.S.F. Headquarter, New Delhi.
3. The Chairman, Group Commandant, C.I.S.F. Group Head Quarter, Patna, Camp of C.I.S.F., East Zone Headquarter, Patna.
4. The Commandant, Bhilai Battalion 1 C.I.S.F. RTC Bhilai, Raipur, Durg.
5. The Additional Director General, C.I.S.F. Hyderabad.
6. The Inspector General, Training Centre, Hyderabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratnakar Ambastha
For the Respondent/s : Mr. S.D Sanjay (Addl. Soc. Gen.)
Mr. Shyam Bihari Singh (CGC)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 10-04-2018 The present writ petition has been filed for directing the respondents to permit the petitioner to join as a constable in C.I.S.F.

The short facts of the case are that the petitioner was selected on the post of constable in C.I.S.F. and, accordingly, the appointment letter was issued in his name on 15.3.2017 with a direction to report on 4.4.2017 at RTC Bhilai, Bhilai Battalion-1 CISF Bhilai, Raipur, Durg, UATAI. The petitioner had reported at the said place on 4.4.2017 and had remained there up to 16.7.2017, however, thereafter he was asked to leave the said



place, whereafter nothing has been communicated to the petitioner herein.

The learned counsel for the petitioner submits that the reason for asking the petitioner to leave the service of CISF is pending criminal case against the petitioner herein bearing Muffasil P.S. Case No. 71 of 2015. The learned counsel for the petitioner submits that the police, after investigation, has filed a final form in the said case which is dated 30.7.2017 and thereafter the learned trial court by an order dated 10.8.2017 has accepted the same and dropped the proceeding as far as the petitioner is concerned. The learned counsel for the petitioner submits that the latest judgment of the Hon'ble Apex Court, reported in (2016)8 SCC 471 [**Avtar Singh Vs. Union of India & Ors.**] has laid down guidelines for deciding the candidature relating to suitability of the candidate, for retention in service in case criminal case is pending against him.

Per contra, the learned counsel for the respondents has submitted that the petitioner has concealed the factum of pendency of criminal case by filing his application/ attestation form, hence on account of concealment on the part of the petitioner, the petitioner is not entitled to any relief.

In view of the rival contention of the learned counsel



for the parties, I am of the opinion that such trivial issue, as well as issues involving disputed question of facts cannot be decided by this Court and the same can only be decided by the appropriate authority. Accordingly, I direct the appropriate authority to decide the case of the petitioner, taking into consideration the FIR, lodged against the petitioner herein, application/ attestation form filed by the petitioner herein and the order of trial court dropping the criminal proceeding qua the petitioner herein.

For facilitating the said decision by the appropriate authority, I direct the petitioner to file a representation before the respondent no. 5, within two weeks from today, annexing all the documents and the judgment of the Hon'ble Apex Court whereafter the respondent no.5 shall consider the entire facts and circumstances of the case and dispose of the representation of the petitioner within a period of four weeks thereafter.

The writ petition is disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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