

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3325 of 2014

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Rajesh Kumar S/O Late Gajraj Singh Resident Of Qurt. No. D/5, Ratwara Gandak Colony, Post- Ramna, P.S.- Sadar, Distt.- Muzaffarpur **Petitioner**

Versus

1. The Chairman, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, (Bailey Road), Patna
 2. The Secretary, Bihar Staff Selection Commission, 15, Jawahar Lal Nehru Marg, (Bailey Road), Patna
 3. The Principal Secretary, General Administration Deptt., Govt. Of Bihar, Patna
 4. The Principal Secretary, Finance Deptt., Govt. Of Bihar, Patna
 5. The Examination Controller-Cum-Additional Secretary, Bihar Public Service Commission, Bailey Road, Patna **Respondents**
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Appearance :

For the Petitioner : Mr. Sunil Kumar Verma, Advocate,
Mr. Suman Kumar Verma, Advocate,

For the Respondents : Mr. Sanjay Pandey, Advocate
H.S.Goldie, AC to GP 6

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 13-07-2018

Heard learned counsel for the petitioner, the State and the BPSC.

2. The petitioner, who appeared in limited competitive examination under advertisement bearing no. 14 of 2010 issued by the Bihar Public Service Commission ('the BPSC' in short), has filed the instant writ petition being aggrieved by the process of selection. It may be indicated that the petitioner was a member of general category and he obtained 210.14 marks, which is lesser than the cut off marks 251.37. Admittedly, he is out of the zone of consideration.



3. The Commission had invited objection from the candidates by issuing a notice in the newspaper that if they are aggrieved by model answers uploaded on the website of the BPSC, for the different series of questions, they were given liberty to make objection in respect of the incorrect answers along with some authoritative material so that before the results were finalized, the BPSC could examine the issue.

4. The petitioner has submitted his application and as per his claim 10 questions were wrong in Paper I and 8 questions were wrong in Paper II. Many other candidates also submitted their objection. After a detail exercise, apex body of the BPSC examined the various objections pursuant to which, as per the counter affidavit filed on behalf of the BPSC, two answers were deleted in Paper 1 and two answers were deleted in Paper 2. Counter affidavit has also annexed records of the procedure undertaken by the experts' committee which reveals that same model answer contained the wrong answer/option in respect of some other questions. Model answers were thus corrected because the correct answer/option was available in the existing model answer.

5. Stand of the BPSC is that other seven questions objected to by the petitioner, were not required to be deleted since the correct answer was available in the model answer.



6. Sum and substance of the counter affidavit filed by the BPSC is that the petitioner has participated in the proceedings, various objections have been considered and cured either by deleting certain questions for which correct option was not available in the model answers, and that the model answer has been corrected by indicating the correct available answer/option before publication of result. The action of the respondent Commission is bona fide. Since now all applicants were to be evaluated as per corrected model answers uniformly there was no scope for any arbitrariness or discrimination. It is also observed that the petitioner having participated in the selection process cannot be permitted to turn around and challenge the same on being declared unsuccessful.

7. Learned counsel for the BPSC has also pointed out with reference to certain documents that the validity of the examination in question has earlier been examined in the proceedings arising out of C.W.J.C.No. 3680 of 2014 and C.W.J.C.No. 5268 of 2014 and in both proceedings challenge to the selection process had been rejected and the writ petitions had been dismissed. He has also relied upon a judgment of the Division Bench passed in LPA No. 703 of 2016 (Rakesh Kumar Toofan Vs. The State of Bihar and others) wherein the same selection was under scrutiny before the Court; and taking note of the fact that under similar circumstances



wherein the petitioners having participated in the selection process, have turned around and challenged the result, relying upon the decision of the Hon'ble Apex court in case of **Ramesh Chandra Shah Vs. Anil Joshi and others**, reported in **(2013) 11 SCC 309** and in case of **Madras Institute of Development Studies Vs. K. Sivasubramaniyam**, reported in **(2016) 1 SCC 454**, dismissed the petitioner's plea therein.

8. This Court is also of the opinion that the writ petition is devoid of merit, moreso, in view of the fact that the same selection process was subjected to scrutiny of this Court earlier as noticed above and this Court for the reasons indicated hereinabove did not interfere with the selection process.

9. Writ petition is dismissed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
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