

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.19064 of 2008**

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1. Shailesh Chandra Rathour, son of Sri Shambhu Sharan Rathour, resident of Village Alawalpur, Piyarian, P.S. Gourichak, District-Patna
  2. Babloo Kumar, son of Sri Kameshwar Sharma, resident of Village Babhana Sikaria, P.S. Parasbiga, District Jehanabad
  3. Pankaj Kumar, son of Sri Shyam Nandan Singh, resident of Village Marianwa, P.S. Aikram, District Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Deputy Inspector General, B.M.P. (Central Range), Patna
3. The Superintendent of Police, Vaishali-cum-Chairman, Central Circle Board-I, Hajpur
4. The Commandant B.M.P.-5, Patna

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate.  
Mr. Gyanendra Kumar Diwakar  
For the State : Mr. Sudish Kumar, AC to PAAG-2

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 12-02-2018**

Heard learned counsel for the petitioners and learned counsel for the State.

In the present case, petitioners have claimed that against Advertisement No.2 of 2004 they have appeared in the examination, were declared successful and have also participated in the physical test. But when the result was published in the first phase and second phase the names of the petitioners were not in the select list. Though petitioner no.1 has obtained 13 marks, petitioner no.2 has obtained 10 marks and petitioner no.3 has obtained 11 marks but the marks which were required to be



added for sports having been not added though they are gold medalist and silver medalist in number of athletic events and rejection of their claim is not sustainable.

Learned counsel for the petitioners submits that their certificates issued by the Bihar Amateur Athletic Association was verified and association vide letter dated 2.6.2008 communicated that certificate attached by them are genuine and as such deprivation of addition of marks for sports and refusing selection is illegal and not sustainable.

Learned counsel for the State has filed its counter affidavit in which State has specifically denied that the petitioners had attached their respective sports certificate along with their respective original forms and as such marks for athletic and sports having not been added at the time of final result. The certificates only reflects on genuineness of certificate does not draw inference that the document was attached with form.

Learned counsel for the petitioners submits that statement made in the counter affidavit is incorrect in view of the fact that association has verified the sports certificate of four persons, namely, Shailesh Chandra Rathour, Pankaj Kumar, Ashish Kumar Singh and Pawan Kumar Singh and two persons having been appointed and petitioners have been left in lurch. The case



of the petitioners were identical to the case of Ashish Kumar Singh and Pawan Kumar Singh so the same treatment should be given to them.

The documents filed by the petitioners does not disclose that case of the present petitioners is identical to the case of Ashish Kumar Singh and Pawan Kumar Singh. Mere verification by letter dated 2.6.2008 does not draw an inference about filing of their respective documentary certificates along with original form then the petitioners have drawn the attention to the letter dated 20.8.2009 written by Deputy Inspector General, BMP (Central Ranj), Patna to the Bihar Military Force wherein complaint of the petitioners were recorded and opined that it requires enquiry. He has further submitted that no enquiry has been conducted but has been given step motherly treatment though they possess sports certificate but marks arising from category has not been attached.

Having given anxious consideration it is disputed question of fact and the same cannot be adjudicated upon into in the present proceeding, in view of the fact that claim of the petitioners to have attached the certificate has been specifically denied by the State. In such event finding cannot be recorded that petitioners had attached the certificates but if, as has been



mentioned, the petitioners had attached certificates along with original form and they should be given mark under sports, fresh consideration is required to be given.

In such view of the matter, this Court directs the Deputy Inspector General, BMP (Central Ranj), Patna to look into the grievance of the petitioners and if it is found that petitioners have attached the athletic certificates along with original forms certainly marks would be awarded and if they have not attached the certificate the question of attachment of marks does not arise. The whole process/enquiry should be completed within a period of six months from the date of receipt/production of a copy of this order.

With the aforesaid observation and direction this writ petition is disposed of.

**(Shivaji Pandey, J)**

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