

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20637 of 2013**

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VIJAY KUMAR S/O OF SRI RAM SWAROOP SINGH R/O VILLAGE +  
P.O. - JAIPUR, VIA - BARAHIYA, P.S. - BARAHIYA, DISTRICT -  
LAKHISARAI.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Bihar, Patna
3. The Principal Secretary , Water Resources Department, Govt. Of Bihar, Patna
4. The Bihar Staff Selection Commission Through Secretary
5. The Secretary, Bihar Staff Selection Commission, Patna
6. The Public Information Officer, Bihar Staff Selection Commission, Patna

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ranjan Kumar Singh  
For the Respondent/s : Mr. SUBHASH PD. SINGH

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**Date : 22-02-2018**

Heard learned counsel for the parties.

This petition under Article 226 of the Constitution of India has been filed for issuance of a direction to Bihar Staff Selection Commission to reevaluate manually by an independent body, the answersheet (O.M.R) of petitioner of question no. 46 of series-A, of Civil Engineering on the basis of model answer produced by the Commission to the petitioner under Right to Information Act or on the basis of the book (Basic and Applied Soil Mechanics) Second Edition 2000, Reprint-2013.

An advertisement bearing Adv. No. 1906 of Bihar Staff Selection Commission, Patna, published in the daily Newspaper



"Dainik Jagran" on 29.11.2006 inviting applications from eligible candidates for appointment on the post of Junior Engineer, Civil/Mechanical, and the number of post was declared in the advertisement and eligibility condition for the post of J.E(Civil) prescribed to be intermediate and Diploma in Civil Engineering or Rural Engineering. The advertisement prescribed about the examination procedure for written examination having two subjects i.e. General Knowledge and Optional Paper. The Civil Engineering is prescribed as optional paper for Junior Engineer (Civil) and Mechanical Engineering is as prescribed as a optional paper for Junior Engineer (Mechanical). The questions were to be objective in the written examination and for each correct answer one marks will be granted and for each wrong answer 0.5 marks will be deducted. The petitioner applied for the post of Junior Engineer (Civil) in terms of the said advertisement and was issued admit card having Roll No. 001891, and he appeared in the written examination held on 29.07.2007. There was some dispute and matter had gone to Supreme Court and Hon'ble supreme Court directed on 30.08.2011 in SLP (C) No. 5752-5753 to publish the result forthwith and results were published on 05.01.2012 for the post of J.E (Civil/Mechanical) in which 800 candidates were



declared successful for the post of J.E (Civil) under general category.

The Commission had sent the recommendation of 800 successful candidates for appointment on the post of J.E (Civil) dated 02.04.2012, however, the said recommendation was not accepted by the department and by letter dated 23.05.2012 of the Principal Secretary, Water Resources Department, recommendations were returned to the Commission with certain observation. A candidate has to pass in both the papers in order to qualify in the written test and thereafter a fresh recommendation on 01.06.2012 was made by the Commission of 392 candidates on the post of J.E.(Civil) by revising its earlier result. The petitioner is amongst those 408 left out candidates who has not found place in the recommendation dated 01.06.2012, confining recommendation of 392 candidates only. The petitioner had filed application before Public Information Officer to provide the model question, Model answer, Answer Script (OMR) and scanning sheet. The Public Information Officer of the commission has provided on 30.07.2012 the model question, model answer, answer sheet(OMR) and scanning paper (tabulation Sheet) under RTI Act. The petitioner was provided series (A) of the question



paper and after perusal of model answer and scanning paper of question no. 46 of series A of Civil Engineering paper, the model answer of question no. 46 is C. The setter has given answer 'C' in his model answer against question no. 46 of series A. It has been submitted that after perusal of the model answer of question no. 46 of series A of Civil Engineering the answer is 'C'. The petitioner had also given his option 'C' in his answer of question no. 46 of series A. However, in the evaluation of question no. 46 the petitioner answer has been found to be wrong. Petitioner belongs to general category and required 40 marks in the written examination and he has got 39 marks in the written examination in his optional paper(Civil Engineering) and has been deprived from selection from one marks only. The petitioner has also got 55 marks in the subject of G.K. which required 40 per cent marks in each paper for selection in general category. It has been submitted that if the petitioner had been awarded one marks against question no. 46 which according to him is the correct answer as model answersheet provided by respondents, he would have succeeded in the examination. The petitioner having received the model answer of OMR Sheet and evaluation sheet found that as per model answer provided by the Commission, the answer to question no. 46 of series A is 'C'.



The petitioner had also answered option 'C' which has been found to be incorrect answer and as such, he filed application under RTI to know why he has been given negative marks against question no. 46 of series A, although the same is correct as per model answer provided by the Commission and Commission by its letter dated 16.01.2013, replied that for the examination conducted for appointment on the post of JE(Civil) setter of the question has provided model answer 'C' as correct answer to the question no. 46 of series A. However, during scrutiny by the expert body, model answer provided by the setter of series A for question no. 46, it was the opinion of the experts that the correct answer is 'A' and as such the Commission on the basis of model answer given by the expert body scrutinized the OMR sheet. However, because of mistake instead of sending model answer as provided by the expert committee, model answer as provided by the setter of the question was sent to him and as per the expert body the answer to the question no. 46 of 'A' series was A and scrutiny of the OMR was done treating 'A' to be the correct answer, as such there is no violation in the evaluation of the answersheet of the petitioner. The reply provided by the Public Information Officer of Bihar Staff Selection Commission, Patna has been enclosed as Annexure-8



to the writ petition.

Learned counsel for the petitioner submits that answer to question no. 46 of A series is 'C' i.e. the correct answer and as such direction may be given to the Commission to treat 'C' as correct answer on the basis of textbooks as enclosed in this writ petition.

This Court in its writ jurisdiction cannot enter into such dispute when the expert body has found answer-A to the question no. 46 of A series to be the correct answer and evaluation has been done as per model answer provided by expert body and not on the basis of model answer as provided by question setter and under R.T.I. petitioner was by mistake provided model answer as provided by question setter in place of model answer as prepared by expert body on the basis of which evaluation was done.

This writ petition has no merit and is accordingly dismissed.

**(S. Kumar, J)**

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