

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18454 of 2018

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Khusbu Sharma, aged about 29 years, D/o Satyendra Sharma, W/o Sishir Kumar,
Resident of Road No.01/A, Shri Krishna Vihar Colony, Beur, Police Station- Beur,
District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Home Commissioner, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Home Secretary, Home Department (Police Branch), Bihar, Patna.
4. The Bihar Police Sub-Ordinate Service Commission through the Chairman, Santosh Manson, B-Block, Near R.P.S. Law College, Raghunath Path, Danapur, Patna- 801503.
5. The Chairman, Bihar Public Sub-Ordinate Service Commission, Bihar, Patna.
6. The Secretary, Bihar Public Sub-Ordinate Service Commission, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P. K. Shahi, Senior Advocate, Mr. Mukesh Kumar, Advocate
For the Respondent/s	:	Md. Nadim Seraj -GP5 Mr. Dhurvendra Kumar, AC to GP5
For BPSSC	:	Mr. Tej Bahadur Singh, Senior Advocate Mr. Kunal Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-10-2018

Heard the parties.

In the present writ petition, the petitioner has sought a relief that the date for Physical Evaluation Test which was scheduled on 25.09.2018 be extended on account of advance stage of pregnancy, so that she will be able to participate in Physical Evaluation Test.

The Bihar Police Sub-Ordinate Service Commission (hereinafter referred to as 'Commission') has issued an



advertisement vide Advertisement No. 01/2017 dated 16.09.2017 against 1717 vacant posts and there is reservation of 38% for female class of candidates. The petitioner has also applied for the said post, declared successful in the written test i.e. preliminary test as well as main examination. She has to appear in Physical Evaluation Test. When the petition was filed for extension of time the petitioner was in advance stage of pregnancy, but today it has been informed that she has been blessed with a male child.

The question that has been raised that another suitable date may be fixed so that she will be able to appear in Physical Evaluation Test, for that the petitioner has placed reliance on the order passed in C.W.J.C. No. 604 of 2017 (Ishika Raj Vs. The State of Bihar & ors.) and its analogues cases. In that case also female candidates were in advance stage of pregnancy, they also sought a relief for extension of time for appearance in Physical Evaluation Test.

This Court has elaborately dealt with the issue and placing reliance on the judgment of the Kerala High Court in the case of *K.P.S.C. Vs. K. Jayasree* reported in **2014 (1) KHC 358** has directed to Central Selection Board to fix a suitable date for the purposes of her test of her physical ability to be appointed as



Jail Warder. But in the present case the post is for Female Constable and it is also undisputed fact that in the advertisement the date for preliminary test, main examination or Physical Evaluation Test has not been mentioned and during that period she entered marital bliss of pregnancy. Now, as on today she is not in a position to participate in Physical Evaluation Test on account of the fact that she has given birth to a male child.

Learned counsel for the Commission has resisted the arguments of the petitioner and submitted that the date of Physical Evaluation Test has already been notified and for those persons who were selected in the main examination, there is no provision for extending any date for Physical Evaluation Test for the pregnant lady and as such the prayer cannot be accepted as already the Physical Evaluation Test has completed, inasmuch as the State/Commission has given an undertaking before the Hon'ble Supreme Court for completion of selection process by the end of October. It is not possible for the Commission to fix an another date for the Physical Evaluation Test of this petitioner.

The Commission has further submitted that large number of persons have filed applications on the identical relief for extension of time on same ground, if it is accepted it will be very



difficult for the Commission to satisfy and extend the date for Physical Evaluation Test for all of them otherwise it will be an unending process.

Having considered the rival contentions of the parties, the Commission has not disputed the submission of the petitioner. The advertisement does not give the fixed scheduled date of different tests and in the meantime she has gone marital bliss of pregnancy which is the inherent right of a woman and that right cannot be taken away in any manner.

As the present case is squarely covered by the judgment and order passed in the case of Ishika Raj (Supra), in such view of the matter, it is desirable to this Court to give an opportunity to the petitioner to participate in the Physical Evaluation Test. Already the petitioner has been blessed with a male child.

Looking to the entire facts and circumstances, this Court directs the Commission to fix any date after two months informing the petitioner about the date of her Physical Evaluation Test and it will be an obligation on the part of the petitioner to physically present herself in Physical Evaluation Test and if she succeeds and gets a place in the merit list only she will have a right for consideration for the appointment on the post. Merely giving direction to fix another date for Physical



Evaluation Test date does not mean that she has been declared successful, but only has been given a chance for participation in selection process. If she fails to appear on the date of test it will be final closure, no further date for Physical Evaluation Test will be granted or extended for her Physical Evaluation Test whatever may be the reason.

With the aforesaid observations and directions this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/Sunny

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	8.10.2018
Transmission Date	NA

