

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.613 of 2019

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1. Bipin Kumar Patel Son of Sri Shambu Nath Patel Resident of Village-Singaila,P.S. Malipur, District-Muzaffarpur
 2. Suman Kumari D/o Sri Dharikshan Paswan R/o Village-Ward No.8 Jetaria Paswan Tola,P.S. Tetaria,Distt.-E.Champaran

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna
2. The Director General of Police, Bihar,Patna
3. The Chairman,Bihar Police Sub Ordinate Service,Commission Bihar,Patna
4. The Bihar Police Sub Ordinate Service,Commission through its Secretary
5. The Secretary Bihar Police Sub Ordinate Service,Commission Bihar,Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Alok Kumar Singh
For the State	:	Mr.Md.Irshad
For BPSCC		Mr. Kunal Tiwary
		Mr. Anupam Raj & Mr Aniket Singh

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 26-09-2019 Heard counsel for the petitioners and counsel for the respondents-State as well as counsel for the respondents-Commission.

Petitioners have participated in the process of selection pursuant to advertisement issued in 2017 for appointment by the respondents-Commission, of Police Sub Inspector for the State of Bihar.

Counsel for the petitioners submits that the process of measurement of height is not observed by the authorities properly. They proceeded on extraneous consideration and as such by recording wrong measurement, petitioners have been ousted from the process by assigning reason that their height was less than requisite



height.

It is submitted that petitioner no.1 had earlier qualified for selection as a constable and in this advertisement, he has been ousted by showing the height lesser what is actually height of petitioner no.1. The dispute is that by recording wrong height, petitioners have been disqualified in the process of selection.

Counsel for the respondents-Commission submits that the writ petition is not maintainable on account of the fact that petitioners have not availed remedy of appeal in terms of the advertisement within the time prescribed in the advertisement. Measurement was done on 22.09.2018 and annexure 4 reveals that appeal was sent by registered post on 28.09.2018 i.e. much beyond three days period of limitation prescribed for appeal before the Chairman. Having failed to do so, petitioners cannot be permitted to approach this court. Further reliance has been placed on the order of the Division Bench of this court passed in LPA No. 895 of 2014 (Ritu Kumari vs. The State of Bihar & ors).

This court would consider it desirable to produce relevant extract of the order passed by the Division Bench which reads as follows:-

“What is the height of the petitioner-appellant and whether her height is of required standard or not are questions of fact and have to be decided by recording evidence.

Logically, therefore, a writ petition is not an appropriate course of remedy in the context of the facts of the present case.



While, therefore, maintaining the order, dated 22.04.2014, passed in C.W.J.C. No. 1620 of 2014, we make it clear that it would remain open to the petitioner-appellant to challenge the findings, with regard to her height, in a civil court of competent jurisdiction and seek necessary remedy for her grievances.

With the above observations and directions, this appeal shall stand disposed of.

If a suit is filed by the petitioner-appellant, the civil court shall deal with the suit expeditiously and dispose of the same, preferably within a period of six months from the date of institution of the suit”.

Having regard to the aforesaid limitation observed with regard to exercise of the writ jurisdiction in the disputed issue of recording of height, this court would also refrain from embarking on such scrutiny in the instant proceedings.

Writ petition, for the aforesaid reasons, is devoid of merit and the same is dismissed.

s.hassan/-

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(Madhuresh Prasad, J)

