

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22747 of 2011

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Devendra Kumar, S/o Sri Gagandeo Prasad, Resident of Bhuniyadi Tola, P.O-
Posua, P.S- Riga, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, General Administration Department, Govt. Of Bihar, Patna.
3. The Bihar Public Service Commission, Bailey Road, Patna Through Its Secretary.
4. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
5. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Narain Yadav, Advocate
For the State	:	Mr. Vijay Kr. Singh No.I, AC to SC18
For the BPSC	:	Mr. Vikash Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 18-04-2019

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

In the present case, the petitioner is seeking relief that
he should be declared successful in 45th Combined Competitive
(Main) Examination, call for the interview and, thereafter, his case
should be recommended for appointment.

The petitioner appeared in the 45th Combined
Competitive (Main) Examination and opted one of the subjects
Geography. While giving the answer, he put a sign at page no.5 in



the middle portion as PTO, which is the ground of granting zero mark to him.

Learned counsel for the petitioner submits that the Commission has wrongly taken action giving him zero mark, had been given the proper marks, he must have been selected either Deputy Collector or Deputy Superintendent of Police, on account of zero mark, he could not be selected there. It has further been submitted that after the examination was conducted the Members of the BPSC sat, taken a decision that those who have put sign of PTO, Turn Over, KTO, their answer sheets will be rejected, if PTO is given in the right side, their answer sheets may not be treated to have been rejected on the ground that they have done unknowingly, he has submitted that he comes under the Clause-3 of the decision, but he has wrongly been granted zero mark, whereas, counsel for the BPSC submits that his case will not be considered under Clause 3, but will be covered under Clause 1 as he has not put the sign of PTO in the right side, but he has given the same in the middle portion. This relief has been granted to those who have done wrong because of ignorance, but, in the present case, he has not put the sign of PTO in the right hand side in the answer sheet, but he has put the sign of PTO in the middle of the answer sheet, as such, the petitioner is not covered by



the decision of the Commission under Clause 3 where strictly the instruction was given that the candidate would not put any sign, such as, PTO, Turn Over, KTO or any other sign, which has been mentioned therein, but instead of obeying the instruction and putting the sign, he cannot take advantage of the ignorance.

This Court is not exercising the power of appeal, but exercising the power of judicial review having limited area of consideration and it can not be said that the decision, which has been taken by the Commission, suffers from any arbitrariness or illegalities committed by the Commission.

In such view of the matter, this Court does not find any merit in this writ application and, accordingly the same is dismissed.

(Shivaji Pandey, J)

V.K.Pandey/
S. Katyayan/-

AFR/NAFR	NAFR
CAV DATE	NA
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