

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1375 of 2018

In
Civil Writ Jurisdiction Case No.17482 of 2016

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The Secretary, Bihar Staff Selection Commission, Veterinary College
Campus, Patna-800014

... .. Appellant/s

Versus

1. Pritam Son of Doman Mandal, Resident of Village-Kiranpur, P.S. Mednichowki, District Lakhisarai.
2. The State of Bihar through the Secretary, Bihar Staff Selection Commission, Patna.
3. The Principal Secretary, Department of General Administration, Govt. of Bihar, Patna.
4. The Deputy Secretary, Department of General Administration, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Lalit Kishore, Senior Advocate
Mr. Satyabir Bharti, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-01-2019

Heard Shri Lalit Kishore, learned Senior Advocate
for the Bihar Staff Selection Commission.

2. The show-cause dated 16th of November, 2017
is under challenge in this appeal.

3. We have gone through the records and we find
that the judgment of the learned Single Judge has discussed the
entire material and we have also perused of the judgment of the
trial Court in the criminal matter in which the respondent-



petitioner has been acquitted. In the absence of any evidence, the acquittal came to be recorded. In the proceedings for cancellation, the reasons given were examined by the learned Single Judge and it was found that after the judgment of the Apex Court in the case of Rajesh Kumar and Ors. Vs. State the Bihar and Ors. decided on 13th of March, 2013, the Commission itself issued a list of the successful candidates which contained the name of the appellant at Serial No. 37.

4. In the wake of the aforesaid facts which are on record merely because an appeal has been filed against the order of acquittal of the criminal case cannot be a ground to question the correctness of the finding recorded by the learned Single Judge which is based on the material on record.

5. Shri Lalit Kishore, learned Senior Advocate, urged that the respondent-petitioner does not possess even the fundamental knowledge of engineering and consequently, his selection which was an outcome of the alleged dubious activities alleged against him should not be upheld by this Court. Moreso, when the respondent-petitioner approached this Court after a very longtime of the conclusion of all the proceedings, the writ petition itself was filed in the year 2016 whereas the selection were of the year 2007. The passage of



nine years was also, therefore, made a ground to question the discretion exercised by the learned Single Judge.

6. Having considered the submissions raised on facts, it is evident that the charge of having utilized unfair means during examination was the same as was sought to be revisited by the Commission at the time of cancellation of the candidature of the respondent-petitioner. The same ground led to the acquittal of the respondent-petitioner in the absence of any evidence either oral or documentary.

7. In the given circumstances, therefore, it is evident that in spite of the cancellation, the Commission after the judgment in the case of Rajesh Kumar and Ors. (supra) by the Supreme Court proceeded to declare the results and place the name of the respondent-petitioner at serial No. 37. It is in this background that the learned Single Judge, in our opinion, rightly came to the conclusion that the Commission was in effect questioning the judgment of the trial Court. If an appeal has been filed, the success or failure would obviously govern the fate of the respondent-petitioner.

8. We are, therefore, not inclined to entertain this appeal, subject to the observation that in the event the appellate Court in the criminal case reverses the judgment of the



trial Court or holds the respondent-petitioner guilty, then in that event, it will be open to the appellant-Staff Selection Commission to take a decision.

9. Consigned to records.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.N.M./Saif

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