

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.74 of 2019

Shiv Shankar Kumar Son of Kapildev Yadav, Resident of Villagar- Langri Bastha, Police Station-Mainatar, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna
2. The District Magistrate, West Champaran, Bettiah.
3. The Deputy Development Commissioner, West Champaran, Bettiah.
4. The Circle Officer, Mainatar, West Champaran.
5. The S.H.O., Mainatar Police Station, West Champaran, (Bettiah).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manaur Alam
For the Respondent/s : Mr. Manish Kumar, GP 4

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 26-06-2019 The petitioner has been denied consideration/ appointment as Chaukidar under the scheme of the Government contained in notification dated 5.3.2014 on the ground that he was an accused in a criminal proceeding arising out of Mainatarn PS Case No. 73 of 2016 for the offence under Sections 341, 323, and 504/34 IPC.

Counsel for the petitioner submits that the offence is alleged to have been committed at young age. Nature of the allegation is very simple and there is no grievous criminal allegation against the petitioner. Apart from that by order dated 17.4.2018 the petitioner has been acquitted from the charges



arising out of the said PS case. In the circumstances, he has submitted an application for reconsideration before the District Magistrate, Bettiah, West Champaran. Copy of the same is Annexure 8 to the writ petition.

Petitioner's Counsel places reliance on the recent judgment of the Apex Court in the case of *Avtar Singh vs. Union of India* reported in *(2016) 8 SCC 471*.

Having regard to the decision of the Apex Court in the case of *Avtar Singh (supra)* this Court would observe that consideration has to be done having regard to the parameters laid down in the said decision and if the claim of the petitioner is found worthy of consideration then benefits on account thereof have to be extended to the petitioner in spite of the fact of his accusation in a criminal proceeding. Since consideration in terms of the Apex Court judgment has to be done by the District Magistrate, respondent No. 2, keeping the writ petition pending would be futile.

The writ petition is disposed of. The claim of the petitioner raised by Annexure 8 should be considered by respondent No. 2 by a reasoned and speaking order having regard to the law laid down in the case of *Avtar Singh (supra)*.

Let the final decision be taken by respondent No. 2 within a period of eight weeks from the date of receipt/production of a copy of this order.

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(Madhuresh Prasad, J)

