

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21566 of 2018

1. Gopal Kumar Modi and Ors S/o Shri Kusaheshwar MOdi, R/o at Tilakpur, P.O Bichway, P.S. CHanan, Dist-Lakhisarai-811310.
2. Soni Kumari W/o Shri Jitendra KUMar, R/o at Mohalla. P.O and P.S Kinjer, Dist - Arwal-804423
3. Priyanka Kumari D/p Shri Ashok Mehata, R/o village- Bela, P.O and P.S Auranagabad Dist-Aurangabad-824104
4. Prity Kumar D/o SHri Lalan Singh R/o at PO and PS KInjer, Dist-Arwal-804423
5. Anjani Kumari D/o Rama Narayan Sah R/o village-Mahna, P.O Mahna, P.S Barauni, Dis- Begusarai-851210
6. Jyoti Kumari D/o SHri SHiv Nath Prasad, R/o village-Chahuta, PO. Kamtaul, PS Bisfi, Dist-Madhubani-847304

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director General of Police, Govt.of Bihar, Patna.
3. The Bihar Police Sub- Ordinate Services Commission, Patna through its Chairman, Bihar Patna.
4. The Bihar Police Subordinate Services Commission Patna through its Secretary Santosh Mansion, B-BI

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr. Birendra Narayan Sharma
For the Respondent/s	:	Mr. Shailendra Kumar, Ac to GP5
For the BPSC	:	Mr. Kunal Tiwari Mr. Aniket Singh

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 24-02-2020 The issue in the instant writ proceeding is that owing to a wrong measurement the petitioners have been ousted from the process of selection for appointment as Sub Inspector in the Police Force.

Learned Senior Counsel appearing for the petitioners submits that the petitioners have been ousted marginally. The requisite height has been found short by few millimeter. He submits



that if re-measurement of their height be done then only truth will emerge. Submission is that the height has been wrongly measured at the physical eligibility test (PET). In respect of petitioner No. 1 submission has also been made that he had been found to be having requisite height of 166 cm when he had participated in the Bihar Staff Selection Commission appointment process conducted in the year 2015. It is therefore submitted that apparently the height recorded in the present selection process showing him to be less than 165 cm is prima facie incorrect.

Learned Counsel representing the respondent Commission submits that the Division Bench has clearly laid down the law with regard to a dispute raised in the matter of assessment of height/physical standards in the selection procedure in writ proceeding. Reliance is placed on the decision of the Division Bench dated 20.10.2014 in ***LPA No. 895 of 2014***.

The Division Bench has clearly held 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.”

Since the legal position settled by the Division Bench are there, this Court would also follow the same. The dispute as to whether the petitioner possesses the requisite height standard or not being an issue of fact was required to be raised by the petitioner and established on the basis of evidence in appropriate proceeding.

The Submission of the State Counsel also merits consideration that other than submitting that the petitioners have raised objection on the same day on which they were subjected to assessment of their height, there is nothing on record to show that they have availed of the remedy of appeal provided in the selection



process before the Chairman against their measurement recorded, which was to their dissatisfaction.

For the reasons indicated hereinabove, this Court does not find any reason to interfere with the selection process, more so since the process as attained finality in April 2019 and as per submission of Counsel for the Commission process of selection has also been done in May 2019.

The writ petition is dismissed.

(Madhuresh Prasad, J)

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