

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8106 of 2021

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Amar Dev Pandey, son of Radhey Shyam Pandey, resident of Village -
Hasanpura, P.O. - Nasirpur, P.S. - Gazipur, District- Uttar Pradesh, Pin Code –
232339.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration
Department, Bihar, Patna.
2. Secretary, Law Department, Bihar, Patna.
3. Bihar Public Service Commission, Patna through its Secretary.
4. Chairman, Bihar Public Service Commission, Patna.
5. Secretary, Bihar Public Service Commission, Patna.
6. Joint Secretary- cum - Controller of Examinations, Bihar Public Service
Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs.Manisha Pandey, Advocate Ms. Shweta Pandey, Advocate Mr. Vishwanath Pandey, Advocate
For the State	:	Mr. G.P. Ojha, GA-7
For the Commission	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 23-03-2021

Heard the parties.

In the present case, the petitioner is raising his grievance
with respect to three questions i.e. Question Nos. 58, 126 and 133



of Set -D of question booklet of 31st Bihar Judicial Services (Preliminary) Competitive Examination.

Counsel for the petitioner submits that he has wrongly been declared unsuccessful in the aforesaid Preliminary Examination as his name could not find place in the list of successful candidates.

Counsel for the petitioner submits that the Commission has wrongly given 'B' is the correct answer of question no. 58 of Booklet-D, but in fact 'C' is the correct answer. With regard to question no.126 of the same booklet, the Commission has wrongly given 'C' is the correct answer, but in fact 'D' is the correct answer. With regard to question no. 133 of the same booklet, the Commission has wrongly given 'C' is the correct answer, but in fact 'B' is the correct answer.

After examination was conducted, the Commission has issued a notice dated 19.12.2020 in its website, asking the candidates that the model answer (provisional) would be available on the website if any candidate has to raise objection with regard to any item of model answer, they are at liberty to do the same, but it must reach on or before 31.12.2020 at 5.00 P:M in close envelope mentioning the advertisement number and that will be looked into by the Expert and after discussing the objection so



raised by the different candidates, final answer list will be prepared. This is the standard procedure followed by all the examining body.

Counsel for the petitioner has fairly stated that he failed to raise any objection on the ground that he was staying in village due to Covid 19, but one thing is very much clear that it is published in the website and the petitioner should have remained vigilant as now in the village area internet is working or if internet is not working, he should have remained cautious to find out when the model answer is to be published and he should take care of.

It is admitted fact that the petitioner has not raised any objection with regard to the model answer given in the notice and after the final result, the writ application has been filed taking a plea that due to pandemic, the petitioner was in village and, as such, he could not take steps to raise objection, inasmuch as, in the advertisement, there is no such procedure has been prescribed that after the examination will be conducted, the model answer will be published in the website asking the candidates to raise objection. So, the Commission cannot change the procedure in the midway, whereas the Commission says that it is a standard procedure, which is adopted by every examining body in order to make the candidate to sure the answer, which has been given as correct or



incorrect answer, so opportunity has been given to each and every candidate to suggest the answer, which is, according to the candidate, is wrong, same will be looked into by the Expert body and if it is found that the suggestion given by the candidate is correct then the answer has to be modified accordingly.

Counsel for the petitioner has placed reliance on a judgment in the case of **Ashutosh Kumar Jha and Ors. Vs. The State of Bihar and Ors. (LPA No. 1235 of 2016** with analogous cases). In that case, the Court has decided the standard procedure to be followed in resolving the dispute with regard to the objection raised by the petitioners. In paragraph 17, it has specifically been mentioned that “In our opinion, this Court, sitting in writ jurisdiction exercising power of judicial review, should not go into the correctness or otherwise of the opinion of Experts Body and it is not required to sit over such judgment of Experts Body unless it appears to be obnoxious. This Court is not required to go deep into the correctness of answers on the basis of pleadings and counter pleadings and come to its own conclusion about the correctness or otherwise of the opinion of the Experts Body”.

This Court, in judicial review, will not act as appellate body to the decision taken by the expert body unless it is shown to be



perverse as no reasonable person would arrive to such final answer.

Admittedly the petitioner has failed to raise objection as per the notice published in website of the Commission and now, after the final result of preliminary test, he is raising objection about the correctness of answers which he cannot be allowed to take round and challenge the answers.

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)

(Partha Sarthy, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
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