

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8165 of 2021

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Alok Kumar, son of Sunil Kumar Choudhary resident of Village- Kasap,
Thana- Udwant Nagar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, Govt. Department of Home, Govt. of Bihar, Patna.
4. Bihar Police Sub-ordinate Services Commission through its Chairman,
Patna.
5. The Chairman, Bihar Police Sub-ordinate Services Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Syed Asgher Najmi, Adv.
For the BPSSC	:	Mr. Kunal Tiwary, Mr. Aniket Singh, Adv.
For the State	:	Mr.Saroj Sharma, (AC to AAG3)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 30-11-2021

In the instant petition petitioner is sought for following relief:

“(i). For issuance of writ/writs, order/orders, direction/directions in the nature of mandamus commanding upon the respondent authorities to release category wise merit list from preliminary examination results to the Final selection list.

(ii). For issuance of writ/writs, order/orders, direction/directions in the nature of mandamus commanding upon the respondent authorities to stay the selection/appointment procedure for the post of Assistant Superintendent Jail(Ex-Servicemen) for which application were invited by Bihar Police Sub-ordinate Services Selection Commission.

(iii.) For issuance of writ/writs, order/orders, direction/directions in the



nature of mandamus commanding upon the respondent authorities to appoint the petitioner on the post of Assistant Superintendent jail (Ex-Serviceman) if he is in cutoff list of reserved seats for Ex-Serviceman (BC).

(iv). For issuance of any other appropriate writ/writs, order/orders, direction/directions as your lordships may deem fit and proper in the facts and circumstances of the case.”

2. From the perusal of Annexure- 4 and 8, it is evident that the selecting authority has notified the merit list with reference to various categories including the ex-servicemen.

3. Learned counsel for the petitioner submitted that certain other reliefs are yet to be redressed. In seeking writ of mandamus, petitioner has not approached the concerned respondent. So, also there is no demand and statutory right has been established. In the absence of both the ingredients, the petitioner is not entitled to writ of mandamus. The Apex Court in case of ***Mani Subrat Jain vs. State of Haryana & others***, reported in ***AIR 1977 SC 276*** held that before issuance of writ of mandamus, one must establish statutory right followed by demand. The same has been reiterated in a recent decision in the case of ***Hari Krishna Mandir Trust vs. State of Maharashtra and Others*** reported in ***(2020) 9 SCC 356 in paragraph 100 and 101, which is as under:***

100. The High Courts exercising their jurisdiction under Article 226 of the Constitution of India, not only have the power to issue a writ of mandamus or in the nature of mandamus, but are duty-bound to exercise such power, where the



Government or a public authority has failed to exercise or has wrongly exercised discretion conferred upon it by a statute, or a rule, or a policy decision of the Government or has exercised such discretion mala fide, or on irrelevant consideration.
101. *In all such cases, the High Court must issue a writ of mandamus and give directions to compel performance in an appropriate and lawful manner of the discretion conferred upon the Government or a public authority.”*

4. In the light of these facts and circumstances, the petitioner is not entitle to the other remaining relief. In this regard, he is directed to approach the concerned authority within a period of two weeks from today. The concerned authority is hereby directed to take note of the petitioner’s grievance and redress the same in passing a speaking order and communicate the decision to the petitioner within a period of two months from the date of receipt of this order.
5. With the aforesaid observation, the instant petition stands disposed of.

(P. B. Bajanthri, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

