

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 9861 of 2022

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Shalini Singh D/o- Surendra Singh R/o - Baijnathpur, P.O.- Khanawa, P.S.-
Sirdala, District- Nawada. At present C/O- Upendra Nath Ray Jagritipath
Sheopuri, Chitkohra, Anisabad, Patna District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Bihar Police Subordinate Service Commission, Patna through its
Chairman.
4. The Bihar Police Subordinate Service Commission, Patna through its
Secretary.
5. The Bihar Police Subordinate Service Commission, Patna through its
Secretary Santosh Mension, B- Block R.P.S. More, Near Law College,
Raghunath Path, Danapur, Patna-801503.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Sanjay Kumar Sharma, Advocate
For the Respondent/s	:	Mr Sheo Shankar Prasad, SC VIII
		Mr Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 29-07-2022

This case has been taken up today for consideration
through Video Conferencing.

2 Heard learned counsel for the petitioner and the
learned counsel representing the respondents.

3 The petitioner has applied in response to
advertisement issued by the Bihar Police Subordinate Service
Commission (for brevity, *the Commission*). The selection process



was for Constable. The petitioner, upon participating successfully in the written process, was called for physical eligibility test (for brevity, *PET*) and in the process of PET, her height was found to be 154.7 centimeters whereas the requisite height was 155 centimeters. The petitioner has specifically averred that she made an appeal against this measurement and was, thereafter, allowed remeasurement. In the remeasurement, her height was found to be 154.9 centimeters, still short of minimum height. Placing reliance on decision of this Court in CWJC No 7481 of 2018, passed in the case of *Binita Soren & Others -Versus- State of Bihar & Others* (*Annexure 7*), the petitioner's counsel has made a prayer that in view of the fact that the petitioner has, on two different occasions, been found to be having two different heights, it will be in the interest of justice that one more remeasurement be allowed in respect of the height of the petitioner.

4 The learned counsel for the Commission, on the contrary, relying upon decision of Division Bench of this Court rendered in the case of *Ritu Kumri -Versus- State of Bihar & Others* in *Letters Patent Appeal No 895 of 2014*, submits that the claim regarding height of the petitioner is an issue of fact which ought not to be examined by this Court in writ jurisdiction under Article 226 of the Constitution of India. The submission is that the



issue, being raised, is a disputed question of fact and, accordingly, the Division Bench has held that writ jurisdiction is not the appropriate course of remedy.

5 On consideration of the rival submissions, this Court would find that in the case of *Binita Soren (supra)*, relied upon by the petitioner, this Court has directed remeasurement of those petitioners who could not avail remedy of appeal and get a second measurement done. In the instant case, the petitioner's own averment in the writ petition that she had appealed and was remeasured. The judgment in the case of *Binita Soren (supra)*, therefore, has not granted any relief other than beyond the scope of Division Bench of this Court in *LPA No 895 of 2014* wherein also this Court has taken note of the fact that the petitioner has been measured twice as per the Rule and, therefore, the Division Bench was of the view that the process having been done, the Writ Court, under Article 226 of the Constitution of India, should not embark upon and examine disputed questions of fact regarding claimed height of petitioner. The judgment in the case of *Binita Soren (supra)* does not help the petitioner's case. This Court, placing reliance on decision rendered in the case of *Ritu Kumari (supra)* would conclude that the petitioner's resort to remedy of writ



jurisdiction is not appropriate remedy for considering the dispute relating to her height.

6 This writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2022
Transmission Date	NA

