

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.891 of 2019

In
Civil Writ Jurisdiction Case No.2589 of 2019

=====

Ajit Kumar Singh son of Uday Narayan Singh Resident of Village- Gorasara,
P.S.- Ramgarh, District- Kaimur (Bhabhua).

... .. Appellant/s

Versus

1. The State of Bihar the Home Secretary, Department of Home Ministry,
Patna, Bihar.
2. The Secretary, Staff Selection Commission, Bihar, Patna.
3. The Inspector General of Police, Police Head Quarter, Patna.
4. The Deputy Inspector General of Police, Shahabad Range.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Kulanand Jha, Advocate Mr. Nagendra Kumar, Advocate
For the State	:	Mr. Suman Kumar Jha, AC to AAG 3
For the BPSC	:	Mr. Satyabir Bharti, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-08-2022

Heard I.A. No. 01 of 2019 in LPA No. 891 of 2019.

There is a delay of 78 days in filing LPA.

For the reasons stated in the application and affidavit,
delay of 78 days in filing LPA is condoned. Accordingly, I.A. No.
01 of 2019 stands allowed.

The appellant has assailed order of the learned Single
Judge dated 12.04.2019 passed in CWJC No. 2589 of 2019.



The appellant is a candidate for recruitment to the post of Sub Inspector in Bihar Police Service pursuant to the advertisement No. 704/2004 & 0511. The appellant was unsuccessful candidate therefore he has invoked remedy under Article 226 of the Constitution in filing CWJC No. 2589 of 2019. In his petition, he has prayed for the following reliefs:-

“(A) For a writ in the nature of Mandamus commanding the respondents to appoint the petitioner on the post of Police Sub-Inspector in Bihar Police Service (ref. To Advt. no. 704/2004 & 0511).

(B) For any other appropriate writ/writs, order/orders, direction/directions which may be fit in the facts and circumstances of the cases.”

The aforesaid prayer cannot be extended for the reasons that appellant has not established statutory right as his name is not reflected in the final select list so as to issue a direction to the appointing authority to appoint the appellant on the post of Sub Inspector in Bihar Police pursuant to advertisement No. 704/2004 & 0511. Unless and until statutory right is accrued in his favour while incorporating his name in the final select list of Sub-Inspector he is not entitled to consider his name and not for appointment for the reasons that other issues were required to be examined only as and when his name is reflected in the final select



list like verifying his antecedent and documents etc. Therefore, the appellant is not entitled to relief sought in the writ petition.

The learned counsel for Appellant submitted that selecting & appointing authority and learned Single Judge have not appraised factual aspects of the Appellant's case on merit. The Appellant has every right to consider his candidature to the post of Sub-Inspector with reference to merit.

Per contra, learned counsel for the respondents submitted that advertisement no. 704 of 2004 & 0511 were subject matter of Writ Petition (C) 227 of 2019 before the Hon'ble Apex Court in the case of **Nirbhay Kumar & Ors** along with other connected writ petition wherein the petitioners therein have suffered order. He relied on para 19 to 21 which reads as under:-

“19. This Court has further passed an order on 01.11.2018. It is also relevant to notice that several candidates some of which are petitioners before us has also filed the impleadment application in Contempt Petition No.1711 of 2018 in C.A.No. 2805 of 2017 which application were rejected on 01.11.2018 and in order dated 01.11.2018, it had although been observed that the applicants are free to make representation appealing to the good conscience of the State of Bihar and the State of Bihar is free to consider the same but in event if the representation are rejected, it shall not give rise to any proceeding/appeal in any of



the Courts. Following observations are made in this regard:

“...Mr. S.Nagamuthu, learned senior counsel, and other counsel appearing for some of the intervenors/applicants, pray for the same relief which is granted to 133 candidates. The said applicants are free to make representations appealing to the good conscience of the State of Bihar. The State of Bihar is free to consider the same and pass appropriate orders in accordance with law. In case such representations are made by the intervenors/applicants within one month from today, appropriate orders may be passed by the state on those representations within three months thereafter. However, we make it clear that even if their representations are rejected, it will not give rise to any proceedings/appeal in any of the Courts.”

20. The Court thus by order dated 01.11.2018 clearly indicated that in event the State of Bihar does not accede to the representation of applicants claiming similar relief to 133 candidates that shall not give rise to any proceedings in any of the Courts. We are not persuaded to grant the said relief in these proceedings under Article 32 of the Constitution.

21. In view of the foregoing discussion, we are of the view that the petitioners are not entitled



for the reliefs as claimed in the writ petitions. All the writ petitions are dismissed”

In the light of the aforesaid development, the appellant is not entitled to relief as sought by him.

Heard learned counsel for the respective parties.

Undisputed facts are that the appellant is a candidate for recruitment to the post of Sub Inspector in Bihar Police Service.

Having regard to the relief sought in the writ petition the appellant is not entitled as long as his name is reflected in the final select list of Sub-Inspector. It is to be noted that even his name is reflected in the final select list he had grievance for consideration of his appointment to the post of Sub Inspector in Bihar Police Service. Hon’ble Apex Court held that even candidate’s name is reflected in the final select list he does not have a right to seek appointment on the post he is entitled to consider his name for appointment. The appellant has not established statutory right that his name is in the final select list so as to direct the concerned authority to consider his name for appointment to the post of Sub Inspector of Police in Bihar Police Service. That apart, the case of **Nirbhay Kumar** (supra) would assist the respondent-selecting and appointing authority.



In the light of these facts and circumstances, the appellant has not made out case. Accordingly, the present LPA stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

