

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2868 of 2023

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Krishnakant Upadhyay S/o Shri Indrabhushan Upadhyay R/o Village-
Dorwan, P.S.- Dulhin Bazar, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
2. The Director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
3. The Senior Superintendent of Police, Gaya.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 02-05-2023

Mr. Awadhesh Kumar Mishra, learned counsel for the petitioner undertakes to remove the defects within two weeks from today. Learned counsel submits that since he is giving his personal undertaking to remove the defects within the aforesaid period, in view of the urgency of the matter, it may be considered and disposed of.

2. Mr. Suman Kumar Jha, learned AC to AAG-3 who appears for the State has no objection to the prayer made on behalf of the petitioner.

3. Subject to above undertaking, this writ application has been taken up for consideration.

4. Petitioner in the present case has been selected and appointed on the post of Constable in the light of the Advertisement No. 5 of 2020 in the District Police Force, Gaya. The grievance of the



petitioner is that the Senior Superintendent of Police, Gaya (Respondent No. 3) is not issuing the district order allowing the petitioner to join.

5. It is submitted that while filling up the application form for the appointment of Constable, a declaration form was required to be filled up in which there was a column for declaration of the antecedent. The petitioner had filled up the same on 02.12.2020 in which he had not disclosed about pendency of Dulhin Bazar P.S. Case No. 08 of 2019 which was lodged against the petitioner by one of his agnates under bailable section of the Indian Penal Code. The case emanates from the land dispute in which the petitioner and his family members have been granted anticipatory bail. These facts transpired in course of police verification as contained in Annexure '4' to the writ application. In the meantime, the petitioner's joining was accepted on 27.09.2022 but the district order has not been issued in favour of the petitioner.

6. It is stated that the petitioner has filed a representation dated 25.11.2022 as contained in Annexure '5' to the writ application.

7. Learned counsel for the petitioner has placed before this Court a copy of the judgment of the Hon'ble Supreme Court in the case of **Pawan Kumar Vs. Union of India and Another (Civil Appeal No. 3574 of 2022** arising out of **Special Leave Petition (Civil) No. 6009 of 2016**) reported in **2022 Live Law (SC) 441**. Learned counsel submits that in the nature of the case of the petitioner, the competent authority is required to act objectively and in a reasonable manner.



8. Learned counsel for the State submits that since the petitioner has filed a representation, this Court may direct respondent no. 3 to consider his representation and take an appropriate decision thereon by a reasoned order.

9. Having regard to the kind of submissions placed before this Court, this Court directs The Senior Superintendent of Police, Gaya (Respondent No. 3) to consider the representation of the petitioner as contained in Annexure ‘5’ to the writ application in the light of the judgment of the Hon’ble Supreme Court in the case of **Pawan Kumar (Supra)** and take an appropriate decision within a period of one month from the date of receipt/production of a copy of this order.

10. The decision so taken be based on reasons and the same be informed to the petitioner.

11. This application stands disposed of accordingly.

12. Certified copy of this judgment shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	03.05.2023
Transmission Date	

