

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1611 of 2023

=====

Birjan Paswan Son of Laxman Paswan, resident of village - Mangurahi, P.O. - Itahat, P.S. - Risiyap, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, department of Home, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Director General cum Commander in Chief, Grih Raksha Bahini, Bihar, Patna.
4. The District Magistrate, Aurangabad.
5. The District Commandant, Bihar grih Raksha Bahini, Aurangabad.
6. The Additional Collector cum Additional District Magistrate, Aurangabad.
7. The Superintendent of Police, Aurangabad.
8. The in-charge Officer of general administration department, Aurangabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Ms. Rupa Kumari, Advocate Mr. Yugal Kishore, Advocate
For the Respondent/s	:	Mr. Dhuvendra Kumar, AC to GP-5

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

- 4 27-06-2023 1. The issue raised in the instant writ proceedings is regarding the assessment of petitioner's height in the process of selection of Home Guard under advertisement No. 02/2011. As per the result dated 28.02.2022, his height has been found to be 162.1 cm which is less than 5 feet 4 inch, being the minimum requisite height.
2. The fact that the height recorded in the result is below the minimum requirement is not in dispute.
3. The petitioner, however, submits that the



measurement is incorrect as his height is above the minimum requisite criteria, 5 feet 4 inch.

4. The issue, whether dispute regarding height of a candidate can be gone into in a proceeding under Article 226 of the Constitution of India or not, stands settled by the Division Bench judgement of this Court in *LPA No. 895 of 2014 (Ritu Kumar vs. the State of Bihar & Ors.)*. The relevant extract of which reads as follows:

"What is the height of the petitioner-appellant and whether her height is of required standard or not are questions of fact and have to be decided by recording evidence.

Logically, therefore, a writ petition is not an appropriate course of remedy in the context of the facts of the present case.

While, therefore, maintaining the order, dated 22.04.2014, passed in C.W.J.C. No. 1620 of 2014, we make it clear that it would remain open to the petitioner-appellant to challenge the findings, with regard to her height, in a civil court of competent jurisdiction and seek necessary remedy for her grievances.

With the above observations and directions,



this appeal shall stand dispose of.

If a suit is filed by the petitioner-appellant, the civil court shall deal with the suit expeditiously and dispose of the same, preferably, within a period of six months from the date of institution of the suit."

5. Considering the Division Bench judgment, the writ application is disposed of leaving to the petitioner the liberty to avail the remedy as per Division Bench judgment, extracted above.

(Madhuresh Prasad, J)

SUMIT/-

U			
---	--	--	--

