

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17610 of 2015

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Rubi Kumari Daughter of Sri Alakh Ram, Village- Ramgarh, Post-
Mamrejpur, P.S. Chenari, District- Rohtas Sasaram and presently residing at
C/o Wife of Sanjeev Kumar @ Sanjiv Kumar Village- Kinarchola, Post-
Dumari, P.S.- Chenari, District- Rohtas Sasaram

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Central Selection Board Constable Recruitment, Bihar, Patna through its Secretary
3. The Chairman of the Central Selection Board Constable Recruitment, Bihar, Patna
4. The Secretary of Central Selection Board Constable Recruitment, Bihar, Patna
5. The Director General of Police, Govt. of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Sunil, Advocate
For the Respondent/s	:	Mr. Ga13- Smt. Namrata Mishra
For the State	:	Mr. Ajit Kumar, GA-9
	:	Mr. Vikash Jha, AC to GA-9.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 25-01-2023 The petitioner by this writ petition prays for considering the case for appointment on the post of constable in Bihar Police Force treating her finally selected candidate as she has passed a written examination as well as physical test under the advertisement issued on 01/2014 and to set aside her disqualification on the ground of Domicile Mismatch.

Learned counsel for the petitioner submits that the petitioner had two Domicile certificates one of village-



Ramgarh, Post-Mamrej, P.S. Chenari, District-Rohtas which is the place where she was residing with her father and the other Domicile certificate is where she resides with her husband viz, Sanjeev Kumar, village- Kinar Chola, Post-Dumari, P.S. Chenari, District- Rohtas (Sasaram). At the time of filling of the application form, she had submitted the address of her father where she had filled her form. While the Domicile certificate of her matrimonial home was different. On the basis of mismatch of the Domicile certificates with that of the application form, her candidature has been declared as disqualified, although the petitioner has cleared the written examination as well as screening/physical evaluation test.

Learned counsel submits that on the basis of the Domicile certificates which are essentially the residential certificates, the candidature of the petitioner could not have been rejected as resident of any individual may change from time to time. Moreover, a married women's Residential/Domicile certificate can be of two places and for this reason, her right for consideration for appointment cannot be taken away.

Per contra, learned counsel appearing for the Board submits that as per the Advertisement the candidate thus



required to produce documents, which are same as mentioned in the application form. In view of a different Domicile certificate having been produced during document verification, there was a mismatch, therefore, the candidature has rightly been rejected. Learned counsel submits that no interference is warranted in such matters and relies upon an order passed by a Co-ordinate Bench of this Court dated 07.11.2019 passed in CWJC No.5112 of 2016 (Sharda Kumari v. The State of Bihar) wherein this Court dismissed her similar writ petitions,

I have considered the submissions. Question arises whether a candidature of applicant can be rejected if there is a discrepancy of the residential certificates. It is an admitted position that the petitioner is a married women. Indian society she would therefore have a matrimonial home different from her parental home. She has produced both the certificates before this Court and from perusal thereto, it is found that both the residence are falling in the same districts and the same police station.

Question arise where a person may change his residence after filling up an application form, can his/her candidature be rejected ?

In the opinion of this Court, the Domicile of the State



is the essential aspect which is to be taken into consideration residence of an individual in a State may change from one place to another. There may be cases where an applicant may file an application while she is un-married and at the time of final selection and document verification, she may have got married and shifted her place of residence to matrimonial house.

In the circumstances, the candidature of an otherwise qualified meritorious person in the opinion of the court cannot be rejected.

I have also carefully gone through the judgment passed by the Co-ordinate Bench in CWJC No.12763 of 2015 dated 27.08.2018 but find that the Court has dismissed the writ petition solely as on the averments made in the counter affidavit remained uncontroverted. The issue whether the mismatch in the address can result in the rejection of a candidature was also not examined. Keeping in view thereto the case of the petitioner is found distinguishable from that of the petitioner in CWJC No.12763 of 2015.

It is an admitted position that 319 vacancies remained unfulfilled due to non-availability of suitable candidates out of them 246 are female SC and 73 of Gorkha candidates.



Keeping in view the above position and considering that the writ petition was filed immediately at the time of selection process, this Court holds the actions of respondent in denying consideration on ground of mismatch as bad in law.

The writ petition is allowed and the respondents are directed to consider the case of the petition for appointment on the post of constable (lady) under the selection of 2015 and place her in the select list according to her merit. She would be entitled to seniority etc. from the same date- persons lower in merit has been appointed. However, she would not be entitled to actual salary for the intervening period but her salary shall be notionally fixed. The compliance shall be made within a period of two months. No costs.

(Sanjeev Prakash Sharma, J)

Brajesh Kumar/-
Item no.39

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