

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.388 of 2019

In
Letters Patent Appeal No.698 of 2018

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Abhishek Kumar Son of Krishnandan Lal Resident of Village- Churaman
Bigha, P.O. -Bhagan Bigha, P.S. Vena, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Govt. of Bihar, Old Secretariate, Bihar, Patna.
2. The Chairman, Bihar Public Service Commission 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
3. The Examination Controller, Bihar Public Service Commission 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
4. The Secretary, Bihar Public Service Commission 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
5. The Joint Secretary-Cum-Examination Controller, Bihar Public Service Commission 15 Jawaharlal Nehru Marg, Bailey Road, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Raja Ram Mishra, Advocate
For the Opposite Party/s :	Mr. Lalit Kishore, Sr. Advocate assisted by
	Mr. Satyabir Bharti, Advocate
	Ms. Sushmita Sharma, Advocate
	Mr. Abhishek Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

4 27-07-2023

Re: I.A. No. 1 of 2023

Heard I.A. No. 1 of 2023 for condonation of delay of 6 months and 18 days in filing present Civil Review petition. For the reasons stated in the application and affidavit, delay of 6 months and 18 days is condoned. I.A. No. 1 of 2023 stands



allowed.

2. The present Civil Review petition is filed for reviewing the order dated 10.04.2019 passed in L.P.A. No. 698 of 2018.

3. Gist of the matter is that the review petitioner - *Abhishek Kumar* was a candidate for recruitment to the post of Assistant held by the Bihar Public Service Commission (hereinafter referred to as 'Commission'). Respondent – Commission is of the view that petitioner had secured lesser marks than the cut-off marks *namely* 126 marks. On the other hand, review petitioner's contention is that he had secured 132 marks and it is within the cut-off marks. Therefore, he has invoked writ jurisdiction in filing C.W.J.C. No. 9382 of 2015 and suffered an order. Thereafter, he has preferred L.P.A. No. 698 of 2018 and suffered order. Hence, the present Civil Review No. 388 of 2019.

4. The dispute is relating to whether the petitioner has manipulated in overwriting or erasing certain objective type of answers and for such answers is he entitled to award of marks or not? The Commission has taken a decision that the petitioner is not entitled to marks to such of those manipulated answers in the light of instructions given to the candidates at item numbers



10 and 12.

5. L.P.A. Court has perused the material information and proceeded to reject the petitioner's claim in the light of condition Nos. 10 and 12. The same has been taken note of in the L.P.A. order. Further, it's consideration is at Page 6 of the L.P.A. order dated 10.04.2019 which reads as under:

"We have perused the counter affidavit. Even though these specific allegations were not there in the counter affidavit but before us a supplementary counter affidavit has been filed categorically bringing on record the scrutiny sheet dated 13th June, 2015 which demonstrates that such erasers were found in respect of 5 candidates and the revised marks allocated upon scrutiny have been mentioned in the last column. Learned counsel submits that these entries have been made by hand an, therefore, the entire documents being with the Commission there is a possibility of such revision enabling other disqualified candidates to be favoured by the Commission.

We have not been able to gather any such material on record which may demonstrate that adapting such method of manual scrutiny has resulted in prejudice to the appellant with a corresponding advantage to any other candidate. The question of inferring any malice either on facts or in law does not arise on the facts of the case. The deduction of marks has been made in respect of several candidates upon attempt of erasing being detected by the scrutiny committee and there facts could not be successfully disputed in the reply submitted by the appellant in his affidavit. The apprehension expresses of manipulated of result in order to provide any benefit to a favoured candidate, therefore, is a contention which does not stand



substantiated by any material on record.”

6. In the light of these facts and circumstances, question of entertaining the present Civil Review petition to recall the order dated 10.04.2019 passed in L.P.A. No. 698 of 2018 is not warranted in the light of Order 47 Rule 1 of the CPC. Apex Court in the case of ***S. Murali Sundaram vs. Jothibai Kannan and Ors.*** in Civil Appeal Nos. 1167-1170 of 2023 (dt. 24.02.2023) read with ***Parsion Devi and Ors. vs. Sumitri Devi and Others*** reported in (1997) 8 SCC 715, it is held that scope of review is limited to the extent of what is error apparent on the face of record. In the present case, review petitioner has not made out any case so as to examine is there any error apparent on the face of record while deciding L.P.A. No. 698 of 2018 on 10.04.2019 or not? Hence, the present Civil Review petition stands dismissed.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

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