

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5015 of 2020

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Sneha Singh, D/o Sri Ashutosh Kumar Singh, R/o Ward No. 9, Dandiha, P.S.-
Koilwar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary.
2. The Director General of Police, Government of Bihar, Patna.
3. The Chairman, Bihar Police Sub-ordinate Service Commission, Patna.
4. The Secretary, Bihar Police Subordinate Service Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Advocate
For the Respondent/s	:	Md. N.H.Khan, SC-1
For the B.P.S.C.	:	Mr. Kunal Tiwary, Advocate
		Mr. Anupam Raj, Advocate
		Mr. Aniket Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-11-2024

Heard the parties.

2. The petitioner has approached this Court seeking a direction upon the respondents to produce the OMR sheet of her Main Examination, especially G.K. Paper-2 in respect to Advertisement No. 01/2017 published for the post of Sub-Inspector of Police as also to disclose the reason of her disqualification. The petitioner also sought a direction upon the respondents to produce the marks obtained by all the finally selected candidates under UR(F) Category, so that the bungling which has taken place in the appointment on the post of Sub-Inspector by the Bihar Police Sub-ordinate Service Commission



(for short 'the Commission') be unearthed and appropriate action be taken.

3. At the outset, learned counsel for the petitioner contended that so far the first prayer of the petitioner is concerned, since the OMR sheet of the Main Examination has already been brought on record by filing a counter affidavit on behalf of respondents no. 3 and 4, the same has been redressed. However, it is contended that the candidature of the petitioner has been rejected only on account of the fact that the roll number required to be filled up in the OMR answer-sheet, has not been correctly filled up in the respective circle as required, nonetheless, it has rightly been mentioned in numerical. It is next contended that only on account of the slip of pen or a small mistake, the candidature of the petitioner ought not to be cancelled.

4. Submission has also been made that in the entire process of selection, undue indulgence has been extended to blue eyes candidates of the Selection Committee. Instances has also been shown that one Niraj Kumar having roll number 3834050172 was though declared fail in the P.T. Examination but still he was issued admit card in the Main Examination with different roll number. It is further contended that there is no



compliance of the horizontal reservation in favour of the UR (F) Category as was required to be done under the advertisement in question. Various other shortcomings in conducting the examination has also been highlighted. It is lastly contended that since the petitioner has approached immediately after publication of the final result, there is no delay and laches on her part; and during the pendency of the present writ petition, if any subsequent development has taken place, such as final selection of the candidate(s), that would not cause any prejudice to her right and entitlement.

5. On the other hand, learned counsel for the Commission submitted that there is clear stipulation in Bihar Police Manual as amended in 2017 that Bihar Police Subordinate Service Commission shall advertise the number of vacancies in widely circulated newspapers. The candidate shall abide by the directions and conditions contained in the advertisement. The candidates shall submit their application forms in the prescribed proforma online through the website of the Bihar Police Sub-ordinate Services Commission as per the terms and conditions contained in the advertisement. The Commission shall hold written competitive examination in two phases i.e. preliminary and main examination. All the



examination papers of written examination shall be based on multiple choice questions. Candidates securing less than 30% (percent) marks in this paper shall be declared unfit to appear for the main examination. The Rules also contemplate that the successful candidates in the first phase of preliminary examination shall be provided an opportunity to appear in the main written examination.

6. Learned counsel for the Commission further contended that the issue in relation to irregularities in the examination in question has also been raised before this Court in **C.W.J.C. No. 17302 of 2018 [Ramesh Kumar and Others v. The State of Bihar and Others]**, wherein the learned Single Judge upon being found favour with the arguments advanced on behalf of the petitioners held that in order to ensure a fair procedure in the examination, the question paper and the model answer sheet should be allotted for the purpose of giving an opportunity to the candidates to raise objection. Issues were also raised with regard to the preliminary test as well and about non supply of the copies of the OMR sheet and, as such, the examination was held to be vitiated. The learned Single Judge have dealt with various issues, *inter alia*, the issue of reservation and the ideal process to evaluate the answer sheet.



7. The order of the learned Single Judge was questioned before the learned Division Bench of this Court in the case of **Bihar Police Subordinate Service Commission and Others v. Ramesh Kumar and Others [2019(2) PLJR 416]**, wherein the learned Division Bench after having considered all the materials available on record and on being found no irregularity in the selection process, has set aside the judgment passed by the learned Single Judge and directed the appellants to forthwith declare the results and finalize the selection process.

8. Learned counsel for the Commission further contended that save and except a formal assertion of the petitioner that horizontal reservation in favour of UR(F) candidates has not been adhered to, there is no specific contention as to how prejudice has been caused to the petitioner. It is also the contention of the Commission that once the candidature of the petitioner has been rejected on account of error in filling up his roll number in the OMR sheet, he cannot be allowed to turn around and challenge the entire procedure of selection process. It is made clear that the selection process has already come to an end and the successful candidates have been extended appointments way back in the year 2019 itself.



9. At this stage, Mr. Singh, learned counsel for the petitioner contended that the final result which has been brought on record by way of Annexure-5 to the writ petition, did not demonstrate that the horizontal reservation has been followed.

10. Having heard the learned counsels for the respective parties and after going through the Amended Rules, 2017 as well as the decision of the learned Division Bench of this Court in **Ramesh Kumar** (supra), it would be pertinent to observe that the entire selection process was subject to scrutiny before the learned Division Bench, wherein the learned Division Bench having gone through the materials available on record found no irregularity and directed to declare the results and finalize the selection process. The order of the learned Division Bench was also questioned by some of the candidates before the Hon'ble Supreme Court in **Special Leave to Appeal (C) No(s). 7713-7714/2019 [Manish Prakash and Others v. Bihar Police Sub-ordinate Service Commission and Others]**, which also came to be dismissed.

11. It would be pertinent to quote the relevant paragraphs of the judgment rendered by the learned Division Bench in **Ramesh Kumar** (supra).

“25. We have considered the submissions raised and we are of the opinion that the appeals



deserve to be allowed on more than one grounds. On the basis of the pleadings on record, we are satisfied that there was no material to point out any illegality or irregularity or lapse in the holding of the main written examinations. If there were irregularities with regard to the preliminary examinations and the First Information Reports lodged in respect thereof, then if the learned Single Judge had any doubt, it was more appropriate to have decided the three writ petitions namely, C.W.J.C. Nos. 6057 of 2018, 6101 of 2018 and 6565 of 2018 simultaneously. The learned Single Judge chose to segregate the same and while delivering the impugned judgment, made an observation that this judgment shall not apply in relation to the preliminary examinations. With regard to the final written examinations, no foundational facts exist nor have they been discussed nor any finding recorded by the learned Single Judge as to how any prejudice has been caused to any of the candidates in respect of any question paper of the written examinations. Neither any allegations have been made to specify the same nor any finding has been recorded by the learned Single Judge. In such a situation, to assume the existence of any unfairness on account of not uploading of key answers does not appear to be justified. Even otherwise, after the results are declared and the exams are over, it is always open to a candidate to clear his doubts by



moving an application under the Right to Information Act in view of the judgment of the Apex Court in the case of Central Board of Secondary Education v. Aditya Bandopadhyay, reported in (2011) 8 SCC 497 for supply of the answer-books in order to raise any such grievance. Apart from this, the contention on behalf of the appellants that the respondent-petitioners cannot now question the procedure of examination also appears to be correct.....

29 Coming to the issue of reservation, we are satisfied that the horizontal reservation in respect of women has to be applied in order to ensure that reservation to women is given up to the extent of their quota. The learned Advocate General has made a statement as noted above that the appellant Commission and the State will be applying reservation only to the aforesaid extent and not beyond the same which is yet to be finally done as the selection process has not yet concluded. We hope and trust that the appellant Commission shall abide by the same in accordance with the law laid down by the Apex Court in this regard as well as the relevant rules and circulars applicable to the controversy without exceeding the limits which are prescribed for women candidates.

30. We also find ourselves in agreement with the argument on behalf of the appellant that the judgment at one place did categorically



indicate that the Court was not entering into the issue of horizontal reservation on account of its observation about the jugglery of figures. In such circumstances, we find no justification for the issuance of any directions in this regard. which observations have the material bearing over the issues raised before this Court.”

12. This Court also finds substance that once the candidature of a candidate has been rejected on account of error in filling up the roll number in the OMR sheet, he/she cannot be allowed to challenge the entire procedure of selection, that too when the selection process has already come to an end and the appointments have taken place.

13. The advertisement and the Amended Rule, 2017 clearly demonstrate that the candidates were required to submit their application in the prescribed performa online through the website of Bihar Police Sub-ordinate Service Commission as per the terms and conditions contained in the advertisement. Once, the petitioner has admittedly committed an error in filling up his roll number in the OMR sheet, there was no question of acceptance of the same as it was an automated online procedure. This Court does not find that there has been any error in rejecting the candidature of the petitioner.

14. In view of the discussions made hereinabove and



the ruling of the learned Division Bench in **Ramesh Kumar** (supra), this Court does not find any merit in the writ petition warranting interference. Accordingly, the writ petition stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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