

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9926 of 2023

Chandra Bhushan Mishra Son of Shankar Dayal Mishra Resident of Village-
Bedupur, P.S.- Ekma, District- Saran ... Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Central Selection Board (Constable Recruitment), through its Chairman Sri Sai Tara Complex, IAS Colony, Jawahar Lal Nehru Marg, Patna.
4. The Chairman, Central Selection Board (Constable Recruitment) Sri Sai Tara Complex, IAS Colony, Jawahar Lal Nehru Marg, Patna.

... Respondents

Appearance :

For the Petitioner	:	M/s Nawal Kishore Singh & Manohar Prasad Singh, Adv.
For the State	:	Mr. Md. Nasrul Hoda Khan, SC I
For the CSBC	:	M/s Sanjay Pandey, Binor Kumar Mishra & Vivek Anand Amritesh, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

6 01-03-2024 Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following relief(s) :

(i) For issuance of an appropriate writ in the nature of CERTIORY for quashing the decision result issued by the Central Selection Board (Recruitment of Constable) (Respondent No.3 & 4) dated 22.08.2017 after inviting applications through daily newspapers / websites by Advertisement No.01/2016 dated 25.08.2016 (Annexure -6) issued under the Home Department (Police) Government of Bihar by Notification No.5344 dated 15.07.2011 and Notification No. 1708 dated 03.03.2014 conducted on 11.02.2017 to 25.03.2017 at Patna High School,



Gardanibag, Patna, in which he was also a competent applicant/ participant

(ii) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the respondent authority to consider the case of the petitioner having more competent to those who have been selected through the Pick and choose policy.

(iii) For issuance of any other appropriate writ/writs, order/orders and direction/directions to which the writ petitioner would be entitled under the facts and circumstances of the case.

3. Learned counsel for the petitioner has sated that petitioner has passed the physical test and also the driving test conducted by the authority. However, the petitioner's name was not found in the selected list. Learned counsel has stated that the fact that the petitioner has appeared in the examination, in the physical test and as well as in the driving test has not been denied in the counter affidavit. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present Writ Petition.

4. Per contra the learned counsel appearing on behalf of the respondents has stated that the petitioner had applied for the post of Driver Constable and basing on the vehicle driving efficiency test the final results were declared on 22.08.2017. That 1526 candidates have been declared successful for 1577



vacancies and the balance 51 vacancies could not be filled due to the non-availability of Backward Class Lady candidates. Learned counsel has stated that the petitioner did not secure the minimum necessary marks to be recommended for the post of Driver Constable in GEN-M-NHG and he has secured only 3 marks whereas the last cut-off marks in the category is 34. Further, the learned counsel has stated that this Hon'ble Court in C.W.J.C. No. 152 of 2018, dated 02.08.2022, under similar circumstances has dismissed the CWJC.

5. As seen from the record the authorities have filed the counter affidavit stating that the petitioner has secured only 3 marks in the category of GEN-M-NHG whereas the cut-off marks in that category is 34. This statement has been made by the authorities concerned in paragraphs 11, 12 and 13 and the same has not been rebutted by the petitioner by way of any rejoinder. Therefore, the averments made by the authority concerned in the counter affidavit that the petitioner has secured lesser marks and did not qualify stands unrebutted and taken to be correct.

6. Once, it is established that the petitioner has not secured the necessary minimum marks for being selected no relief can be granted by this Court sitting under Article 226 of



the Constitution of India.

7. In view of the same, this Court does not find any merit in the present Writ Petition which warrants any interference and the same is **dismissed**, accordingly.

(A. Abhishek Reddy , J)

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