

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15171 of 2024

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Kumar Pratyakshansh S/o Brajendra Kumar Tiwari, R/o 56, Rampur
Udayabhan, P.O. - Ballia, P.S.- Kotwali, District - Ballia (Uttar Pradesh).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Bihar Public Service Commission through its Chairman.
4. The Chairman, Bihar Public Service Commission
5. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manish Chandra Gandhi, Adv. Mr. Himanshu Ranjan, Adv.
For the State	:	Mr. Yogendra Pd. Sinha (AAG-7)
For the BPSC	:	Mr. Sanjay Pandey, Adv. Mr. Nishant Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 07-10-2024 Heard Learned Counsel for the petitioner, Learned

Counsel for the State and Learned Counsel for Bihar Public

Service Commission.

2. The present writ petition has been filed for the

following relief/s:-

*“1. For issuance of a writ in the nature
of Mandamus to the Bihar Public
Service Commission, Patna (Respondent
No.-3) to consider petitioner's Disability
Certificate No.- UP6210619960190871
dated 05.08.2019 issued by the Medical*



Board of District Hospital, Ballia in which petitioner's physical disability was found 60% and if not, then a fresh Medical Board may kindly be constituted in Patna Medical College and Hospital (P.M.C.H.) for assessing petitioner's physical disability for the post of Assistant Prosecution Officer (A.P.O.) in the category of differently abled persons and in alternative remedy his disability is found up to bench mark disability, Bihar Public Service Commission, Patna (Respondent No.-03) may kindly be directed to appoint the petitioner on the post of A.P.O. published in Advertisement No.-01/2020.

II. For issuance of a direction to the respondents to bring on record the total marks obtained by the petitioner in written examination and in interview in pursuant to Advertisement No.-01/2020 in the present writ proceedings and if his total marks is found higher than the last selected candidate under unreserved category, a further direction may kindly be issued to the respondents to appoint the petitioner to the post of Assistant Prosecution Officer in pursuance of Advertisement No.-



01/2020 under unreserved category.

III. For issuance of a direction to the respondents to keep one post vacant for the petitioner from the Advertisement No.-01/2020 till the disposal of this writ petition.

IV. For issuance of any other appropriate writ/writs, order/orders, direction/directions to the official respondents/authorities for which petitioner may be deemed entitled under the facts and circumstances of this case.”

3. Learned Counsel for the petitioner submits that the petitioner has appeared for the Assistant Prosecution Officer (A.P.O.) examination advertised by Bihar Public Service Commission, but petitioner's selection could not be made only on the ground that the Medical Board constituted by Indira Gandhi Institute for Medical Sciences (I.G.I.M.S.), Patna has found the petitioner's disability upto 15%. Counsel submits that the disability certificate issued by I.G.I.M.S, Patna is prepared under four doctors as well as certificate issued by Medical Board District Hospital, Ballia is also prepared under four doctors. Counsel further submits that he has requested for constitution of fresh Medical Board and ready to deposit



whatever be the cost imposed for the same. Counsel relied on a judgment in case of *Najaruddin Ansari Vs. The State of Bihar & Ors.* decided on **26.06.2013** passed in *Civil Writ Jurisdiction Case No.23090 of 2011* in which this Hon'ble Court has pleased to direct to proceed for constitution of fresh Medical Board to ascertain the physical fitness of the petitioner. Counsel submits that the said judgment is based on the case of *Md. Masaud Alam Vs. The State of Bihar & Ors.* reported in *AIR 2012 SC 1873*.

4. Learned Counsel for Bihar Public Service Commission opposes the prayer of the petitioner and submits that the scrutiny of all the disabled successful candidates has been made by I.G.I.M.S, Patna and then only this decision has been taken.

5. In the light of the submissions made by the parties particularly the judgment in case of *Md. Masaud Alam Vs. The State of Bihar & Ors. (supra)*, it is hereby directed to the Bihar Public Service Commission to constitute a fresh Medical Board of All India Institute of Medical Science (AIIMS), Patna and the cost for the same shall be borne by the petitioner and for that, petitioner is directed to deposit Rs.50,000/- (Rupees Fifty Thousand) before the BPSC in this matter. And, BPSC shall



ascertain the Medical Board and intimate about the date to the petitioner for appearance and all process shall be directed to be completed within 90 days from the date of production of the order and upon receiving the report from the Medical Board of the AIIMS, Patna, the BPSC shall take appropriate steps in this matter.

6. Hence, with the aforesaid observations and directions, the present writ petition stands disposed off.

(Dr. Anshuman, J)

Divyansh/-

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