

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7201 of 2023

Abhay Kumar Son of Yogendra Jha Resident of Village- Jandaha, P.S.- Jandaha, District- Vaishali. Presently residing at Ram Chandra Nagar, Dighi Kala, P.O.-Dighi East, P.S.- Hajipur Sadar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Directory -in-Chief, Health Department, Government of Bihar, Patna.
3. The Bihar Staff Selection Commission through its Secretary, Veterinary College, Patna- 800014.
4. The Secretary Bihar Staff Selection Commission, Veterinary College, Patna- 800014
5. The Chairman Bihar Staff Selection Commission, Veterinary College, Patna- 800014.
6. The Controller of Examination, Bihar Staff Selection Commission, Veterinary College, Patna- 800014.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Mishra
For the State	:	Mr. Mujtabaul Haque (Gp 12) Mr. Manish Kumar (AC to GP12)
For the BSSC	:	Mr. Satyabir Bharti Mr. Abhishek Anand Ms. Kanupriya

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

3 10-01-2025 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the respondents.

2. This petition has been preferred by the petitioner
seeking following reliefs:

“i. For issuance of an order, direction or a writ of certiorari for quashing of the casual order dated 19.04.2022 issued by Secretary, Bihar Staff Selection



Commission, Patna in the M.J.C. No. 413/2022 filed by the petitioner pursuant to the representation dated 24.12.2021, preferred by petitioner subsequently to the order dated 16.12.2021 passed by Hon'ble Mr. Justice P.B. Bajainthri, Hon'ble Justice of Patna High Court in C.W.J.C. No. 19915 of 2021, whereby and whereunder it is stated that petitioner had obtained 135 marks out of 400 (33.75%), in the written examination. The qualifying marks in the unreserved male category were 40% which is equivalent to 160 marks. However, since he was treated as a female candidate on account of the petitioner having declared himself a female candidate, he was erroneously declared qualified as the qualifying marks in the female category was 32% equivalent to 128 marks against the Advertisement No. 08010116 dated 06.05.2016 published for appointment against 276 vacancies of Health & Sanitary Inspector despite he had been participated in the interview.

ii. For issuance of an order, direction or appropriate writ directing the respondent authorities to consider the writ petitioner for appointment to the post of Sanitary Inspector against the Advertisement No. 08010116 dated 06.05.2016, since, non inclusion of the petitioner after the interview is a result of mala fide and arbitrary action of the respondent Commission.

iii. To any other relief to which the petitioner may be found entitled to the facts and circumstances of this case.”



3. It is submitted by learned counsel for the petitioner that pursuant to the advertisement dated 06.05.2016, the petitioner had applied for the post of Sanitary Inspector. At the time of submission of his on-line form, due to some typographical error, he mentioned his category as female instead of male. Subsequently, he informed the concerned respondent regarding this irregularity but no decision has been taken by the respondent. He further submits that later on, the petitioner on the basis of admit card issued by the respondent appeared in the examination and at the time of counseling, his candidature has been rejected on the ground that he is a candidate of male and his candidature has been considered by the respondents as female, for which the petitioner is not liable. Therefore, it is prayed by the counsel that on these grounds only the candidature of the petitioner cannot be rejected.

4. The counsel for the respondents submits that as per the advertisement, the qualifying marks for the male candidate was of 40% and for the female 32%. The petitioner secured his marks which was 33.75%. Since his candidature was treated as a female candidate, he was permitted to appear in the examination and at the time of counseling, it was found that he is not a female rather he is a male candidate and since he has not



obtained the qualifying marks for the male, his candidature has been rejected.

5. During course of argument, it is fairly admitted by the counsel for the petitioner that the petitioner himself due to his mistake filled the form declaring himself as a female. He also fairly admitted the fact that the 40% marks fixed for the male candidate and he secured only 33.75% marks. Therefore, he is not entitled to get any appointment on the basis of his marks as a male candidate.

6. Considering the above submissions made by both the counsels and further submission made by the counsel for the petitioner, it is quite clear that the petitioner, who virtually a male candidate, himself filled his application declaring him as female. It is also clear that for the male candidate qualifying marks was fixed as 40% and the petitioner has secured 33.75% marks only. Therefore, he is not entitled to get any relief.

7. Accordingly, the petitioner is dismissed at this stage itself, having no merit.

(Arvind Singh Chandel , J)

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