

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11287 of 2025

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Rajeev Kumar Son of Late Ganpati Ram resident of Drainage Colony P.O.
Udakishanganj P.S. Udakishanganj, District - Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. The Chairman, Bihar Public Service Commission, Patna.
3. The Deputy Secretary, Bihar Public Service Commission, Patna.
4. The District Magistrate, Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Prasad Singh, Advocate
For the Respondent/s	:	Mr. Vishambhar Prasad, AC to AAG-5
For the B.P.S.C.	:	Mr. Prachi Pallavi, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 24-07-2025

Heard learned Counsel for the petitioner, learned
Counsel for the Bihar Public Service Commission and learned
Counsel for the State.

2. The present writ petition has been filed with the
following reliefs:-

*“I. For directing the
Chairman, Bihar Public Service
Commission, Patna (Respondents No.-
2) and the District Magistrate
Madhepura (Respondents No.- 4) to
appoint/join the petitioner
immediately on sympathetically*



ground because the petitioner and his whole family members are moving from the hand to mouth, the petitioner will have to challenge letter No.- 245-1/Est. dated 23.10.2003 Collectorate, Madhepura (General Branch), in the year 2003-2004 which is annexed in Annexure - 3, but he did not challenge the order due to lack of Knowledge (Annexure-11 & Annexures-12).

II. For grant of any other relief/reliefs for which the petitioner is legally bound to be entitled in the facts and Circumstances of the Case.”

3. After some argument learned Counsel for the petitioner seeks permission to withdraw the writ petition.

4. Learned Counsel for the Bihar Public Service Commission submits that for the same cause of action petitioner has earlier moved before this Court in CWJC No.10644 of 2012 and the same was dismissed vide order dated 07.01.2020. He again moved before this Court in L.P.A. No.119 of 2020 and vide order dated 17.12.2024 his L.P.A. was rejected. Thereafter, the petitioner has moved before this Hon'ble Court with same relief on the ground that one CWJC has decided by another Bench vide order dated 08.10.2024 passed in CWJC No.15368 of 2023.



5. In the light of the submissions made, this Court is of the view that the judicial discipline has to be maintained in the legal proceedings when the matter has already been tested in CWJC and L.P.A., then again raising the same matter before the writ Court is not maintainable in the light of the judicial decision made by the Hon'ble Supreme Court in the case of **Association for Democratic Reforms vs. Election Commission of India and Another** reported in **(2025) 2 Supreme Court Cases 732**, whose paragraphs 107 to 111 are very much relevant which states as follows:

“107. It is pertinent to reiterate that the doctrine of res judicata is applicable to writ petitions under Article 32 and Article 226 as well. The inclusion of the term "public right" in Explanation VI of Section 11 of the Civil Procedure Code, 1908 aims to avoid redundant legal disputes concerning public rights. Given this clarification, there is no room for debate regarding the application of Section 11 to matters of public interest litigation presented through writ petitions.

108. In Daryao v. State of U.P. [1961 SCC OnLine SC 21: (1962) 1 SCR 574], a Constitution Bench of this Court emphasised that the rule of res judicata is



founded on significant public policy considerations rather than being a mere technicality. It was clarified that petitioners seeking to challenge a decision must present new grounds distinct from those previously raised in order to escape the bar of res judicata. The Bench articulated this as follows: (SCC OnLine SC para 31)

"31.... We are satisfied that a change in the form of attack against the impugned statute would make no difference to the true legal position that the writ petition in the High Court and the present writ petition are directed against the same statute and the grounds raised by the petitioner in that behalf are substantially the same."

109. Another Constitution Bench of this Court in Direct Recruit Class II Engg. Officers' Assn. v. State of Maharashtra [(1990) 2 SCC 715; 1990 SCC (L&S) 339] followed the aforesaid dictum 9 to hold that the principles of res judicata are not foreign to writ petitions. A reference may be made to the following paragraph: (SCC pp. 740-41, para 35)

"35.... It is well established that the principles of res judicata are applicable to writ petitions. The relief



prayed for on behalf of the petitioner in the present case is the same as he would have, in the event of his success, obtained in the earlier writ petition before the High Court. The petitioner in reply contended that since the special leave petition before this Court was dismissed in limine without giving any reason, the order cannot be relied upon for a plea of res judicata. The answer is that it is not the order of this Court dismissing the special leave petition which is being relied upon; the plea of res judicata has been pressed on the basis of the High Court's judgment which became final after the dismissal of the special leave petition. In similar situation a Constitution Bench of this Court in Daryao v. State of U.P. [1961 SCC OnLine SC 21; (1962) 1 SCR 574] held that where the High Court dismisses a writ petition under Article 226 of the Constitution after hearing the matter on the merits, a subsequent petition in the Supreme Court under Article 32 on the same facts and for the same reliefs filed by the same parties will be barred by the general principle of res judicata. The binding



character of judgments of courts of competent jurisdiction is in essence a part of the rule of law on which the administration of justice, so much emphasised by the Constitution, is founded and a judgment of the High Court under Article 226 passed after a hearing on the merits must bind the parties till set aside in appeal as provided by the Constitution and cannot be permitted to be circumvented by a petition under Article 32. An attempted change in the form of the petition or the grounds cannot be allowed to defeat the plea...."

110. No doubt, res judicata bars parties from re-litigating issues that have been conclusively settled. It is true that this principle is not rigid in cases of substantial public interest and constitutional courts are empowered to adopt a flexible approach in such cases, acknowledging their far-reaching public e interest ramifications.

111. However, this standard is applicable only when substantial evidence is presented to validate the irreversible harm or detriment to the public good resulting from the action impugned. The Court must



come to the conclusion that the petition is not just an old wine in a new bottle, but rather raises substantial grounds not previously addressed in litigation. Only under these circumstances may it consider such a petition; otherwise, it is within its authority to dismiss it at the threshold.”

6. In the light of the judicial discipline of the Hon’ble Supreme Court, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2025
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