

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.417 of 2021

In
Civil Writ Jurisdiction Case No.16836 of 2018

=====

Khushboo Kumari D/o Shiv Shankar Prasad Resident of Village/Mohalla-
Govindpur Bihar P.S.- Mansoorchak Distt- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar through its Principal Secretary, Home Department, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. Central Selection Board of Constable through its Chairman, Bihar, Patna.
4. The Chairman, Central Selection Board of Constable, Bihar, Patna.
5. The Secretary, Central Selection Board of Constable, Bihar, Patna.
6. The Commandant, Bihar Military Police, Patna.
7. The Special Work Officer, Central Selection Board Police Recruitment Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Mukesh Kumar-1, Advocate.
	:	Mr. Jay Prakash Sharma, Advocate.
For the State	:	Mr. Saroj Kumar Sharma, AC to AAG-3.
For the CSBS	:	Mr. Sanjay Pandey, Advocate.
	:	Mr. Binod Kumar Mishra, Advocate.
	:	Mr. Vivek Anand Amritesh, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-02-2025

Appellant – Khushboo Kumari is a resident of Village/Mohalla- Govindpur, Bihar, P.S. Mansoorchak, District Begusarai. She is a candidate for recruitment to the post of Constable pursuant to advertisement no.01 of 2017. Her claim was under E.B.C. category, and the application for the post is required to be filled through online. While submitting online



application she had committed error to the extent of claiming that she is a B.C. candidate instead of E.B.C. On this score her candidature has been rejected to the extent that her certificate is of E.B.C. whereas her application reveals B.C. category. Feeling aggrieved by the decision of the concerned respondent, she has invoked writ jurisdiction by filing C.W.J.C. No.16836 of 2018. It was decided against her on 05.04.2021 while affirming the decision of the selecting authority to the extent of non-suitable to the post of Constable. Feeling aggrieved by the order of learned Single Judge dated 05.04.2021, appellant has presented the present L.P.A.

2. Learned counsel for the appellant submitted that appellant is from a rural background and application for the post of Constable is required to be submitted through online (technology). While filling up of application, there is an error committed by her insofar as not indicating that her claim is under E.B.C. category, on the other hand she has stated that she is claiming under B.C. category. On this trivial issue selecting authority has rejected her candidature and it has been affirmed by the learned Single Judge. It is also submitted that learned Single Judge has taken note of instruction to the candidates and Hon'ble Division Bench decision of this Court. He is relying on



Supreme Court decision in the case of **State of West Bengal & Ors. vs. Mitul Kumar Jana** reported in **2023 LiveLaw (SC) 714**, in this case candidate has suppressed material information relating to pendency of criminal proceedings. Hon'ble Supreme Court has taken note of the alleged offence to the extent that candidate was not involved in a heinous/serious offence or any offence involving moral turpitude. There also candidate has not adhered to the candidates instruction in not filling relevant column in respect of whether was he involved in criminal case or not. It is also submitted that the appellant's case is on better footing than Mitul Kumar Jana. In the present case what is error is only a mistake committed by the appellant insofar as filling up of a category as a B.C. instead of E.B.C.

3. Per contra, learned counsel for the respondent Mr. Sanjay Pandey vehemently argued that once the candidate violated the instruction in such an event such candidate is not entitle to consider his/her name for the post. It is submitted that there is no infirmity in the Selecting Authority's decision read with the order of learned Single Judge. The learned Single Judge has taken note of decisions of Division Bench in the case of **Anil Kumar vs. the State of Bihar and others**, reported in **2013 (4) PLJR 1** and in the case of **Central Selection Board of**



Constable and others vs. Raj Kumar and others, reported in **2017 (1) PLJR 599**. It is also submitted that matter is required to be referred to Larger Bench if the Division Bench decision is not taken into consideration by this Bench. Learned counsel for the respondent is relying on the Co-ordinate Bench decision in the case of **The Chairman, Bihar Police Subordinate Services Commission & Anr. vs. Dolly Kumari & Ors.** decided on 15.05.2023 in L.P.A. No.46 of 2022 and the decision of Hon'ble Supreme Court in the case of **State of Uttar Pradesh & Ors. vs. Ajay Kumar Sharma & Anr.**, reported in **(2016) 15 SCC 289** and in the case of **Mary Pushpam vs. Telvi Curusumary & Ors.**, reported in **(2024) 1 SCR 11**.

4. Heard the learned counsel for the respective parties. Undisputed facts are that appellant – Khushboo Kumari is from a village and she is new to the technology insofar as filling online application for the post of Constable. There is no serious error committed by her insofar as filling up of category as B.C. instead of E.B.C. It is a trivial issue, therefore, the concerned authority should have considered her candidature after accepting the category as E.B.C. On this issue the Hon'ble Supreme Court in the case of **Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board and Anr.**, reported in



(2016) 4 SCC 754 (para 14 to 18), it is held that belatedly submission of OBC certificate could be entertained and in yet another case viz., **Vashist Narayan Kumar vs. State of Bihar and Ors.** reported in **2024 SCC OnLine SC 2**, in paragraph nos.3 & 20 it is held as under:-

“3. The appellant submitted his educational certificates/ mark sheet as well as his caste certificate for document verification. On 11.06.2018, the final results reflected him as having failed. The only reason was that, while in the application form uploaded online, his date of birth was shown as 08.12.1997, in the school mark sheet, his date of birth was reflected as 18.12.1997.

20. In this case, the appellant has participated in the selection process and cleared all the stages successfully. The error in the application is trivial which did not play any part in the selection process. The State was not justified in making a mountain out of this molehill. Perhaps the rarefied atmosphere of the cybercafe, got the better of the appellant. He omitted to notice the error and even failed to avail the corrective mechanism offered. In the instant case, we cannot turn a Nelson’s eye to the ground realities that existed. In the order dated 22.11.2021 in C.A. No.6983 of 2021 (Prince Jaibir Singh v. Union of India), this Court rightly observed that though technology is a great enabler, there is at the same time, a digital divide.”

5. In view of later decision cited supra the decision cited on behalf of the respondents is not assisting the respondents. In fact in the case of Mitul Kumar Jana (supra) the



Hon'ble Supreme Court has taken in respect of suppression of material information where the relief has been granted to Mitul Kumar Jana with an observation that Mitul Kumar Jana is not involved in a heinous/ serious offence or any offence involving moral turpitude and the fact that in the said criminal case he has been honourably acquitted. Therefore, the present case of appellant – Khushboo Kumari is on better footing than Mitul Kumar Jana case, accordingly, the order of learned Single Judge dated 05.04.2021 passed in C.W.J.C. No.16836 of 2018 read with impugned decision in C.W.J.C. No.16836 of 2018 are set-aside.

6. The learned counsel for respondent submitted that Co-ordinate Bench decision is binding on this Bench, if this Bench is not considering in that event matter is to be referred to larger Bench. The principle is not attracted for the reasons that we are relying on the latest Hon'ble Supreme Court's decision viz., Vashist Narayan Kumar. State of Uttar Pradesh decision cited supra. Citations and principles argued by respondents do not assist their case and it is in different context and factual aspects are not one and the same. Similarly Mary Pushpam case is also not assisting, in view of the fact that we are relying on Vashist Narayan Kumar's case, facts are identical insofar as



trivial issue of inadvertently filling wrong material in a column i.e., B.C. instead of E.B.C.

7. The concerned authority is hereby directed to reconsider the claim of appellant – Khushboo Kumari for the selection and appointment to the post of Constable within a period of three months from the date of receipt of this order. If the appellant – Khushboo Kumari is appointed as a Constable, it is made clear that she is not entitle for arrears of salary, however, she is entitle to seniority and other benefits on par with such other persons appointed pursuant to advertisement i.e., from their appointed date. The same shall be taken note of by the selecting and appointing authority and proceed to pass speaking order and communicate the same to the appellant within the time limit stipulated supra.

8. Accordingly, present L.P.A. is allowed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

ritik/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.02.2025
Transmission Date	NA

