

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.491 of 2025

In
Civil Writ Jurisdiction Case No.4890 of 2020

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1. The Chairman, Bihar Staff Selection Commission P.O. Veterinary College Patna - 14.
 2. The Bihar Staff Selection Commission, P.O. Veterinary College, Patna - 14 through the Secretary.
 3. The Secretary Bihar Staff Selection Commission, P.O. Veterinary College, Patna- 14.

... .. Appellant/s

Versus

1. Vinay Kumar Son of Ramshankar Singh, resident of village- Rajkhand, P.S- Aurai, District - Muzaffarpur.
2. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Satyabir Bharti, Sr. Adv.

Ms. Aastha Prakash, Adv.

Ms. Kanupriya, Adv.

Mr. Abhishek Anand, Adv.

For the State : Mr. Sanjay Kumar Ghosarvey, AC to AAG 3

For the Pvt. Respondent : Mr. Vijay Kumar Singh, Adv.

Mr. Abhinav Shandilya, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-02-2026

This Letters Patent Appeal has been filed by the

appellants Bihar Staff Selection Commission, Patna and its

authorities (hereinafter referred to as the ‘Commission’)



challenging the order dated 01.05.2024 passed by the learned Single Judge in CWJC No. 4890 of 2020. Prayer of the petitioner in the writ petition was for a direction to the respondent authorities to include his name in the list of selected candidates at the appropriate place which was published by the respondent Commission vide Memo No. 2478/Aa dated 27.09.2019; and also permit the petitioner to participate in the driving test and interview on the ground that the petitioner had passed the written examination and has experience of driving of more than seven years in the Circle Office, Aurai, District Muzaffarpur for which the petitioner had submitted his experience certificate duly issued by the Circle Officer in the prescribed format in the office of the Commission.

2. In the counter affidavit filed by the Commission-respondent Nos. 4 and 5, it is stated that the allocation of marks has been prescribed in the following manner:- the written test carries 75 marks and against the work experience of the duly contractual Niyojit Vehicle Driver in the offices of Bihar Government, total 25 marks, with the clear stipulation that for driving experience of each year, five marks is to be given upto maximum 25. It is further stated that the petitioner, Vinay Kumar, who comes under Unreserved category, appeared in the



written test and obtained 44.75 marks, which is of course above the minimum qualifying marks of 40% fixed for General Category candidates. However, the petitioner was working as daily wage driver in the Circle Office, Aurai and the certificate issued by the Circle Office does not entitle him to get marks under the heading of Driving Experience as the work experience of the petitioner does not fall under the category of Niyojit Vehicle Driver of the Government of Bihar. Therefore, the marks under the heading of 'driving experience' has not been awarded to the petitioner and since the petitioner could not secure the minimum qualifying marks of 55 for being called to the driving test and interview, therefore his name did not find place in the list of eligible candidates who have been called for driving test.

The learned Single Judge in the impugned order has been pleased to hold as follows:

“6. In the light of the submission made by the parties, it transpires to this Court that at the time of drafting of the said advertisement, the authority particularly the Secretary and other officials must be taken into consideration that this advertisement has come in the light of Hon'ble Court's order, therefore, the facts and circumstances under which this Court has passed order must be taken care of and the truth is that C.W.J.C. No. 8566 of 2007 with analogous cases had been filed by the daily wage drivers. M.J.C. 3375 of 2013 has also arisen from the said C.W.J.C. No. 8566 of 2007, therefore,



this advertisement must cover all those drivers who were daily wagers but in the said advertisement, only contractual drivers has been taken into consideration. As such, this Court direct the Respondent No. 2 i.e. The Principal Secretary, General Administration Department, Government of Bihar, Patna to consider the case of the petitioner, on their representation within 90 days from the date of filing the same by the petitioner within 30 days, and issue proper instruction to B.S.S.C. to consider the case of the petitioner.”

3. The learned counsel for the appellants has placed reliance on the notification dated 09.07.2014 issued by the General Administration Department, Government of Bihar, wherein it is stated that 75 marks is prescribed for written examination and 25 marks for the work experience of motor driving of drivers legally appointed on the basis of contract in any office of the State Government, with clarification that 5 marks is to be awarded for work experience of the motor driving of each year, maximum 25 marks. On that basis the aforesaid notification, the advertisement (Annexure P/4) has been issued and since the petitioner was not engaged as Driver (contractual basis), therefore, he was rightly not awarded 25 marks even though he produced certificate from the Circle Office. The learned Single Judge has not considered such important aspect while passing the impugned order and therefore, the impugned order is liable to be set aside.



4. However, the learned counsel appearing for the respondent-Vinay Kumar contended that a counter affidavit has been filed in the present Letters Patent Appeal by the respondent and a photocopy of Memo No. 14946 dated 19.09.2024 has been brought on record as Anneuxre R/1 which clearly shows that in compliance with the impugned order dated 01.05.2024 passed by the learned Single Judge, the Deputy Secretary to the Government of the General Administration Department has already issued a letter addressed to the Secretary, Bihar Staff Selection Commission, Patna (Appellants) contained in Memo No. 14946 dated 19.09.2024 whereby and whereunder he directed/requested to the Secretary, Bihar Staff Selection Commission, Patna to consider the case of the respondent for grant of weightage as daily wager driver and also requested to recommend for appointment of the respondent to the concerned District Magistrate.

5. It would be relevant to observe that the Commission is only a recruiting agency facilitating the recruitment process and the requisitioning authority is the State, who is the ultimate employer. Once a decision has been taken to extend weightage a daily wager driver to the petitioner in view of the order of the learned Single Judge, the recruiting agency is



bound to follow or get a clarification from the State.

6. This Court also finds that the afore noted letter was addressed to the Commission on 19.09.2024 itself much prior to filing of the LPA on 28.04.2025 but this fact has also not been disclosed and has been brought by the writ petitioner in his counter affidavit. It is expected that parties must disclose all the relevant facts to uphold fairness.

In the case of ***Tomorrowland Limited Vrs. Housing & Urban Development Corporation Limited & Another*** in ***(2025) 4 Supreme Court Cases 19***, it has been held as follows:

“56. It needs no emphasis that whosoever comes to the court claiming equity, must come with clean hands. The expression “clean hands” connotes that the suitor or the defendant have not concealed material facts from the court and there is no attempt by them to secure illegitimate gains. Any contrary conduct must warrant turning down relief to such a party, owing to it not acting in good faith and beguiling the court with a view to secure undue gain. A court of law cannot be the abettor of inequity by siding with the party approaching it with unclean hands. This also brings to mind the oft-quoted legal maxim—he who seeks equity must do equity.”

7. Furthermore, the aforesaid letter is not under challenge. Since the impugned order passed by the learned Single Judge has already been acted upon and Annexure R/1 has



already been issued, which is appended to the counter affidavit filed on behalf of respondent no. 1, we are not inclined to interfere with the order of the learned Single Judge.

Accordingly, the Letters Patent Appeal stands dismissed.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	21.02.2026
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