

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18133 of 2025

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Shubham Kumar Son of Raj Ishwar Mahto, Resident of village- Tariyani
Chhapra, P.S. Tariyani, District- Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Director General-cum-Commandant General Home Guard and Fire Services, Bihar, Patna.
5. The District Magistrate-cum-Chairman of District Home Guard Selection Committee, Sheohar.
6. The Superintendent of Police-cum-Member, District Home Guard Selection Committee, Sheohar.
7. The Chairman Home Guard, Office Sardar Patel Bhawan, 5th Floor, D and E Block, Nehru Path, Bailey Road, Patna- 800023.
8. District Commandant-cum-Member Secretary, District Home Guard Selection Committee, Sheohar.
9. District Welfare Officer-cum-Member, District Home Guard Selection Committee, Sheohar.
10. The S.H.O. Tariyani Police Station, District Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lokesh Kumar, Advocate Mr. Aman Kumar, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 16-07-2026 Heard learned counsel for the parties.

2. The petitioner has filed the instant application for
the following reliefs:

*“(i) For issuance of an
appropriate writ/writs, order/orders or
direction/directions in the nature of
mandamus commanding the Respondents to*



allow the Petitioner to join on the post of Home Guard, for which he has been duly selected candidate and to allow the petitioner to participate the training programme of Home Guard in pursuant to the Advertisement No. 01 of 2025, as the petitioner has been duly selected;

(ii) For direction to the Respondents to issue appointment/joining letter to the Petitioner on the Post of Constable with all consequential benefits within a stipulated period;

(iii) To pass any other order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.”

3. The case of the petitioner in brief is that on the respondent authorities coming out with Advertisement no.1 of 2025 for appointment of Volunteer Home Guards, the petitioner being eligible in all respects filed an application for appointment under the EBC category. Having succeeded in all the preliminary tests etc, the name of the petitioner figured at serial no.2 of the EBC category in the final merit list for selection on 78 posts of Home Guard in the district of Sheohar.

4. As directed by the respondent authorities, the petitioner produced the original certificates for verification of



the respondents.

5. It is the case of the petitioner that he was surprised that inspite of having been selected, he was not allowed to join on the post of Home Guard nor was sent for training. On enquiry by the petitioner, it transpired that having been made accused in an FIR appertaining to Tariyani Chapra P.S. Case no.39 of 2025 and not having made statement with respect to the pendency of the FIR/criminal case either in his online application nor in the verification form, the respondents had not permitted the joining of the petitioner on account of suppression.

6. It is the contention of learned counsel for the petitioner that so far as the statement in the online application form is concerned, the same was filled up and uploaded on 4.4.2025 whereas the FIR came to be registered subsequently on 17.4.2025. Even on the date of filling up of the verification form, the petitioner had no knowledge about the pendency of the instant case. It is further submitted that on perusal of the contents of the FIR, it would transpire that the allegations therein are trivial in nature.

7. In response, it is submitted by learned counsel for the respondents that it is not in dispute that the petitioner did not



mention about the pendency of the criminal case in the verification form. He is still an accused in the said FIR in the criminal case arising out of the said FIR and chargesheet has been submitted finding the case to be true. It is thus submitted that the petitioner was rightly not permitted to join on account of pendency of the criminal case.

8. Having heard learned counsel for the parties and having perused the material on record, it transpires that so far as statement in the online application form is concerned, the same having been filed on 4.4.2025, it could not be expected that the petitioner make a statement with respect to the criminal case which was not even registered on the said date. It is the case of the petitioner that even on the date of filling up of the verification form 1.7.2025, he had no knowledge about the same.

9. On perusal of the contents of the FIR, a copy of which has been brought on record as Annexure-13 to the supplementary affidavit filed on behalf of the petitioner, it transpires that the allegations levelled therein is absolutely trivial in nature. The allegation against the accused persons therein is that on the occasion of Durga Puja in the year 2025, some musical event had been organized by the organizers



without taking prior permission of the authorities concerned resulting in large gathering and law and order problem. Learned counsel for the petitioner submits that the petitioner had no connection with the organizing of the musical event etc mentioned therein.

10. The Hon'ble Supreme Court in the case of ***Commissioner of Police and Ors. vs. Sandeep Kumar; (2011) 4 SCC 644*** held that the modern approach should be to reform a person instead of branding him as a criminal all his life. Relevant portion of the judgment is reproduced herein below for ready reference:

“2. The respondent herein, Sandeep Kumar applied for the post of Head Constable (Ministerial) in 1999. In the application form it was printed:

“12(a) Have you ever been arrested, prosecuted, kept under detention or bound down/fined, convicted by a court of law for any offence, debarred/disqualified by any Public Service Commission from appearing at its examination/selection or debarred from any examination, rusticated by any university or any other education authority/institution.”

Against that column the



respondent wrote: “No”.

3. It is alleged that this is a false statement made by the respondent because he and some of his family members were involved in a criminal case being FIR No. 362 under Sections 325/34 IPC. This case was admittedly compromised on 18-1-1998 and the respondent and his family members were acquitted on 18-1-1998.

4. In response to the advertisement issued in January 1999 for filling up of certain posts of Head Constables (Ministerial), the respondent applied on 24-2-1999 but did not mention in his application form that he was involved in the aforesaid criminal case. The respondent qualified in all the tests for selection to the post of temporary Head Constable (Ministerial). On 3-4-2001 he filled the attestation form wherein for the first time he disclosed that he had been involved in a criminal case with his tenant which, later on, had been compromised in 1998 and he had been acquitted.

5. On 2-8-2001 a show-cause notice was issued to him asking the respondent to show cause why his candidature for the post should not be cancelled because he had concealed the fact of his involvement in the aforesaid criminal



case and had made a wrong statement in his application form. The respondent submitted his reply on 17-8-2001 and an additional reply but the authorities were not satisfied with the same and on 29-5-2003 cancelled his candidature.

6. The respondent filed a petition before the Central Administrative Tribunal which was dismissed on 13-2-2004. Against that order the respondent filed a writ petition which has been allowed by the Delhi High Court and hence this appeal.

7. The learned counsel for the appellants has submitted that the respondent should have disclosed the fact of his involvement in the criminal case even if he had later been acquitted. Hence, it was submitted that his candidature was rightly cancelled.

8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our



approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives.

9. In this connection, we may refer to the character “Jean Valjean” in Victor Hugo's novel Les Miserables, in which for committing a minor offence of stealing a loaf of bread for his hungry family Jean Valjean was branded as a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life.

10. We may also here refer to the case of Welsh students mentioned by Lord Denning in his book Due Process of Law. It appears that some students of Wales were very enthusiastic about the Welsh language and they were upset because the radio programmes were being broadcast in the English language and not in Welsh. They came up to London and invaded the High Court. They were found guilty of contempt of court and sentenced to prison for three months by the High Court Judge. They filed an appeal before the Court of Appeals. Allowing the appeal, Lord Denning observed:

“I come now to Mr Watkin Powell's third point. He says that the



sentences were excessive. I do not think they were excessive, at the time they were given and in the circumstances then existing. Here was a deliberate interference with the course of justice in a case which was no concern of theirs. It was necessary for the Judge to show—and to show to all students everywhere—that this kind of thing cannot be tolerated. Let students demonstrate, if they please, for the causes in which they believe. Let them make their protests as they will. But they must do it by lawful means and not by unlawful. If they strike at the course of justice in this land—and I speak both for England and Wales—they strike at the roots of society itself, and they bring down that which protects them. It is only by the maintenance of law and order that they are privileged to be students and to study and live in peace. So let them support the law and not strike it down.

But now what is to be done? The law has been vindicated by the sentences which the Judge passed on Wednesday of last week. He has shown that law and order must be maintained, and will be maintained.



But on this appeal, things are changed. These students here no longer defy the law. They have appealed to this Court and shown respect for it. They have already served a week in prison. I do not think it necessary to keep them inside it any longer. These young people are no ordinary criminals. There is no violence, dishonesty or vice in them. On the contrary, there was much that we should applaud. They wish to do all they can to preserve the Welsh language. Well may they be proud of it. It is the language of the bards—of the poets and the singers—more melodious by far than our rough English tongue. On high authority, it should be equal in Wales with English. They have done wrong—very wrong—in going to the extreme they did. But, that having been shown, I think we can, and should, show mercy on them. We should permit them to go back to their studies, to their parents and continue the good course which they have so wrongly disturbed.” (Vide Morris v. Crown Office [(1970) 2 QB 114 : (1970) 2 WLR 792 : (1970) 3 All ER 1079 (CA)] , QB at p. 125C-H.)



In our opinion, we should display the same wisdom as displayed by Lord Denning.

11. As already observed above, youth often commits indiscretions, which are often condoned.

12. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Sections 325/34 IPC. Probably he did not mention this out of fear that if he did so he would automatically be disqualified. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.”

11. Taking into consideration the facts and circumstances of the case as narrated herein above, the nature of allegations in the FIR and the ratio of the judgment of the Hon’ble Supreme Court in the case of *Sandeep Kumar* (supra), in the opinion of the Court the case of the petitioner requires reconsideration by the respondent authorities in light of the judgment quoted herein above.

12. In the facts and circumstances of the case, the matter is remanded to the District Commandant-cum-Member Secretary, District Home Guard Selection Committee, Sheohar (respondent no.8) who shall reconsider the case of the petitioner



in light of the judgments of the Hon’ble Supreme Court in *Avtar Singh vs. Union of India and Ors.*; (2016) 8 SCC 471 and *Sandeep Kumar* (supra) within a period of two months from the date of receipt/production of a copy of this order.

13. The writ application stands disposed off.

(Partha Sarthy, J)

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