

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7532 of 2020

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Vikash Kumar S/o Krishnadeo Paswan R/o Village-Ram Bigha, P.O. and P.S.-
Gurua, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Home, Government of Bihar, Patna
2. The Principal Secretary, Environment, Forest, and Climate Change Department, Government of Bihar, Patna.
3. The Chairman Central Selection Board of Constable, Sardar Patel Bhawan, 6th Floor, Block A/626, Jawaharlal Nehru Margh, Patna-23, Bihar.
4. The Chief Forest Conservator, Patna, Bihar.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Praveen Kumar, Advocate
For the State : Mr. Raghwanand GA-11 with
Mr. Sanjay Kumar Tiwari, AC to GA-11
For the Central Selection
Board of Constable : Mr. Vivek Anand Amritesh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 04-03-2021

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Central Selection Board of Constable (hereinafter referred to as the “Board”).

2. Under Advertisement No 1 of 2019 applications were invited from the candidates eligible for appointment as Forest Guard. The petitioner has participated in the selection process against the vacancy reserved for the Scheduled Castes under the male category. The final result has been declared and is placed on record by the petitioner as Annexure-3. The same is dated 22.11.2019. The cut-off marks for the Scheduled Castes candidates of the male category has been shown in the result as 266.67. The petitioner has not been offered an appointment. He, under the



circumstances, has approached this Court seeking a direction upon the respondents to declare the petitioner as a successful candidate and to appoint the petitioner as Forest Guard Constable forthwith.

3. Earlier, the matter was taken up on 15.09.2020. In view of the submissions advanced by the petitioner's counsel, this Court directed the Board to bring on record the copy of the answer sheets of the petitioner for the written examination. The answer sheets/ OMR sheet (Optical Mark Recognition) of the petitioner, in compliance of the said directions, has been placed on record by way of a supplementary counter Affidavit.

4. The petitioner's counsel submits that on basis of the copy of the answer sheets it is not possible for him to ascertain for which answers he has been granted marks; or negative marks. The substance of the submission is that, based on the perusal of the answer sheets/ OMR sheet (Optical Mark Recognition) it is not possible for the petitioner to ascertain whether he has actually missed the cut-off marks, or there is some discrepancy in the result.

5. The learned counsel for the Board, on the other hand, submits that the process of examination does not provide for handing over a copy of the answer sheets/OMR sheet (Optical Mark Recognition). The same, however, has been produced only in terms of the earlier order dated 15.09.2020 passed by this Court. This Court had passed the said order on prayer of the petitioner's counsel. It, therefore, does not lie in the mouth of the petitioner to contend that the production of answer sheets/OMR sheet (Optical Mark Recognition) does not satisfy the petitioner.



6. Having considered the rival submissions, this Court would observe that the submissions of the counsel for the Board appears to have substance. It is on the request of the petitioner that this Court had directed for production of answer sheets/ OMR sheet (Optical Mark Recognition) of the petitioner even though process of selection does not provide for the candidates to have an opportunity to examine the answer sheets/ OMR sheet (Optical Mark Recognition).

7. No specific allegation of *mala fide* has been alleged against any person conducting the examination. Merely because the petitioner has missed the selection by a very thin margin, there cannot be any occasion for the Court to embark on an enquiry and re-assess the marks obtained by the petitioner. Merely based on the self serving apprehension of the petitioner, this Court would not carry this matter further to examine whether the petitioner has been granted marks properly or not, as there is no legal basis for petitioner to doubt or dispute the same.

8. Counter affidavit filed by the Board has already placed on record marks obtained by the petitioner, i.e., 256.33 marks. The same is below cut-off marks for Scheduled Caste male candidate, which is 266.67. This Court would not permit the petitioner to invoke writ jurisdiction for reassessment of the marks awarded by the Board.

9. Assessment of merits of the candidates, including the petitioner, by the Board cannot be challenged only on the ground that petitioner (candidate) has missed the cut-off mark by a thin margin, and if a re-assessment is done he may just cross the cut-off



marks and emerge successful. This Court would not sit in appeal over the assessment made by the Board, when no irregularity/infirmary is alleged in the process of selection. Having missed the selection process on the grounds of acquiring less than the cut-off marks, no legally sustainable grounds have been urged by the petitioner to claim any relief in respect of the process of selection, in writ jurisdiction.

10. The writ petition is dismissed.

(Madhuresh Prasad, J.)

shyambihari/-

AFR/NAFR	AFR
CAV DATE	N/A
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