

**(2013) 01 JH CK 0053****Jharkhand High Court****Case No:** WP (S) No. 3594 of 2012

Md. Kudus Ansari

APPELLANT

Vs

The State of Jharkhand and  
Others

RESPONDENT

**Date of Decision:** Jan. 16, 2013**Citation:** (2013) 3 JLJR 679**Hon'ble Judges:** Narendra Nath Tiwari, J**Bench:** Single Bench**Advocate:** Ajay Kumar Pathak, for the Appellant;**Judgement**

@JUDGMENTTAG-ORDER

Narendra Nath Tiwari, J.

The petitioner has prayed for a direction on the respondents to issue letter of appointment for the post of Driver Police in Garhwa district. It has been stated that the petitioner had appeared in the test pursuant to the Advertisement No. 1/2010 dated 17th February, 2010. After passing through the physical test, driving test and written test, the petitioner obtained 43 marks. The candidates, who obtained 28-30 marks, were appointed. But the petitioner has been discriminated, he was not appointed. The petitioner filed representation before the Superintendent of Police-Garhwa-cum- Chairman, Palamau Range, Driver Police Selection Board, Palamau long back on 9th March, 2010, requesting him to issue appointment letter, but no order has been passed till date.

2. The respondents opposed the writ petition by filing a counter affidavit. It has been stated, inter alia, that the petitioner had applied from two districts i.e. Garhwa and Palamau in violation of the condition laid down in the advertisement and for the said reason the petitioner is disqualified for the appointment. The respondents, however, have not disputed other contentions, including the petitioner's claim that others with lower marks in selection test have been appointed.

3. I have heard learned counsel for the parties. In course of argument, learned counsel for the petitioner submitted that the respondents have no jurisdiction to reject the petitioner's candidature only on the ground that he had applied from two places. In *Mithilesh Tiwari vs. The State of Jharkhand & Ors.* [W.P.(S) No. 1658 of 2011], this Court has already quashed the said condition of the advertisement and the same is non-existent. The respondents have, thus, arbitrarily denied the appointment of the petitioner on a non-existent ground.

4. Learned J.C. to A.G. appearing on behalf of the respondents though opposed the petitioner's prayer, has not disputed that Clause-4 of the advertisement, by which the petitioner's appointment has been denied, has been quashed by this Court in *Mithilesh Tiwari*'s case (supra).

5. I, therefore, find substance in the submission of learned counsel for the petitioner that the denial of the petitioner's appointment is based on a non-existent ground and the same is wholly arbitrary and illegal. For the reasons aforesaid, this writ petition is allowed. The Superintendent of Police-Garhwa-cum-Chairman, Palamau Range, Driver Police Selection Board, Palamau-Respondent No. 3 is directed to issue appropriate order of appointment of the petitioner within four weeks from the date of receipt/production of a copy of this order, if there is no other legal impediment.