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**(2016) 07 PAT CK 0131**

**PATNA HIGH COURT**

**Case No:** Letters Patent Appeal No. 1121 of 2016

Raghewendra Kumar

APPELLANT

Vs

Bihar Staff Selection Commission

RESPONDENT

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**Date of Decision:** July 14, 2016

**Citation:** (2016) 4 PLJR 976

**Hon'ble Judges:** I.A. Ansari, ACJ. and Smt. Anjana Mishra, J.

**Bench:** Division Bench

**Advocate:** Mr. Dinu Kumar and Mr. Rajesh Kumar Singh, Advocates, for the Appellants; Mr. Abbas Haider, SC-16, for the State/Respondents; Mr. Kamla Kant Upadhyaya and Mr. Chandra Bhushan, Advocates, for the B.S.S.C.

**Final Decision:** Dismissed

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### **Judgement**

**I.A. Ansari, A.C.J.(Oral) - I.A. No.5575 of 2016**

Heard Mr. Avinash, learned Counsel, appearing on behalf of the intervener appellants.

2. This interlocutory application has been filed by the intervener for impleading them as appellants in the present appeal.

3. The applicants cannot be impleaded in the present appeal inasmuch they are neither a necessary nor proper party for adjudication of the lis.

4. In view of the above and in the interest of justice, this interlocutory application is rejected.

5. I.A. No.5575 of 2016 stands disposed of.

L.P.A. No.1121 of 2016

6. Pursuant to an advertisement, published on 21.09.2004, by the Bihar Staff Selection Commission, inviting applications to fill up 223 vacant posts of Sub-Inspectors of Police, in the State of Bihar, many persons applied. One of the

conditions specifically mentioned in the advertisement was that a candidate can apply only in one region. In view of the fact that more than the advertised posts were filled up by the Government during the process of selection, writ petitions came to be filed before this Court. The matter was ultimately carried to the Supreme Court in S.L.P. (Civil) No.1240- 1244/2011. By order, dated 02.02.2011, the Supreme Court issued the following directions:-

"In the peculiar facts and circumstances of these cases, we direct the Bihar Staff Selection Commission to hold fresh examinations for the 299 posts of Sub Inspectors of Police and only the appellants, who were writ petitioners before the High Court of Judicature at Patna, whose cases were adjudicated upon or are pending before the High Court (Total 223 only as per the list given in Court by Mr. Ranjit Kumar, learned senior counsel) would be at liberty to appear in the physical and written examinations."

7. On the basis of various applications made, the order, dated 02.02.2011, was, later on, modified by another order, dated 28.22.2011, which reads as follows:-

"We have heard learned counsel for the parties.

Applications seeking permission to file application for directions are allowed.

"By the aforesaid order dated 2nd February, 2011, we had permitted only 223 candidates to appear in the examination. But now, after perusing the applications and hearing the counsel for the parties, we deem it appropriate to permit all these applicants who are similarly situated and also all those candidates who are eligible, to appear in the examination for 299 posts of Sub Inspector of Police. Uniform standard would be made applicable to all the candidates and all the candidates appearing for the above post will have to undergo similar physical and the written examination."

8. Inasmuch as the appellants herein were applicants pursuant to the advertisement, dated 28.06.2011, published in compliance of the directions issued by the Supreme Court, as mentioned above, but they were not allowed to participate pursuant to the advertisement, which was published, on 28.06.2011, the appellants came to this Court with the writ petition, made under Article 226 of the Constitution of India, giving rise to 11905 of 2015, seeking direction to be issued to the respondent Bihar Staff Selection Commission to permit them to participate in the process of selection. As the writ petition has been dismissed by order, dated 22.04.2016, this appeal has been preferred.

9. Heard Mr. Dinu Kumar, learned Counsel, appearing on behalf of the appellants, and Mr. Kamla Kant Upadhyaya, learned Counsel, appearing on behalf of the respondent Bihar Staff Selection Commission. Heard also Mr. Abbas Haider, learned Standing Counsel No.16, appearing on behalf of the State-respondents.

10. While considering this appeal, it needs to be pointed out that all the writ petitioners, appellants herein, except petitioner appellant No.10, had applied for selection in more than two regions and, hence, their candidature was rejected on the ground that they were disqualified. As far as the petitioner-appellant No.10 is concerned, he did not physically qualify and, therefore, he was held to be ineligible to participate in the written examination.

11. On the basis of the facts, as noted above, the learned single Judge took the view that the petitioners-appellants herein were not qualified to participate in the written examination.

12. In view of the fact that a person, who was already ineligible to participate in the written examination, could not have been allowed to appear in the written examination, it clearly follows that the appellants stood disqualified for the reasons stated hereinabove, the learned single Judge's conclusion that the appellants had no case, cannot be faulted at. We, therefore, find no infirmity, legal or factual, with the conclusion as arrived at by the learned single Judge.

13. In the result, and for the foregoing reasons, this appeal is not admitted and is, accordingly, dismissed.

14. There shall, however, be no order as to costs.

15. The presence of the Secretary, Bihar Staff Selection Commission, is hereby dispensed with.