

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4739 of 2015

- =====
1. Dr. Ashok Kumar Kariwal son of Banwarilal Kariwal, resident of Road No. 6C, Rajendranagar, P.S.- Kadamkuan, District -Patna
 2. Dr. Abhishek Tiwari son of Rama Shankar Tiwari, resident of 103, Kamla Enclave, Sardar Patel Colony, P.S.- Kurji, Patna
 3. Dr. Pashupati Kumar Jain son of Sri Shivbhagwan Jain, resident of Opposite MIG 348 East Ashok Nagar, P.S.- Kankarbag, District - Patna
 4. Dr. Sudhir Kumar son of Dr. Awadhesh Prasad Singh, resident of K 199, Hanumannagar, P.S.- Kankarbag, District -Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna
2. The Principal Secretary, Department of Health, Government of Bihar, Patna
3. The Secretary, Department of Health, Government of Bihar, Patna
4. The Director- in- chief, Health Services, Department of Health, Government of Bihar, Patna
5. The Additional Secretary, Department of Health, Government of Bihar, Patna
6. The Joint Secretary, Department of Health, Government of Bihar, Patna
7. Dr. Motal Ahmad Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya son of not known, resident of not known
8. Dr. Sanjay Kumar Rao, Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya son of not known, resident of not known
9. Dr. Sanjay Kumar, Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya son of not known, resident of not known
10. Dr. Rajmani Prasad, Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya son of not known, resident of not known
11. Dr. Shishir Kumar, Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya son of not known, resident of not known
12. Dr. Ajit Kumar Sinha, Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya son of not known, resident of not known
13. Dr. Mukesh Kumar, Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya son of not known, resident of not known
- All through the Dean, Anugrah Narayan Memorial Medial College, Gaya
14. Dr. Vasudeo Prasad Jayaswal, Assistant Professor (Contractual Appointee) Surgery Darbhanga Medical College, Laheriasarai Darbhanga son of not known, resident of not known
15. Dr. Suryadeo Prasad Singh, Assistant Professor (Contractual Appointee) Surgery Darbhanga Medical College, Laheriasarai Darbhanga son of not known, resident of not known
16. Dr. Md. Kamaruddin Ansari, Assistant Professor (Contractual Appointee)

Surgery Darbhanga Medical College, Laheriasarai Darbhanga son of not known, resident of not known

17. Dr. Shivanand, Assistant Professor (Contractual Appointee) Surgery Darbhanga Medical College, Laheriasarai Darbhanga son of not known, resident of not known All through the Principal Darbhanga, Medical College, Laheriasarai, Darbhanga

18. Dr. Manoj Kumar Jayaswal, Assistant Professor (Contractual Appointee) Surgery Sri Krishna Medical College, Muzaffarpur son of not known, resident of not known

19. Dr. Ganesh Kumar, Assistant Professor (Contractual Appointee) Surgery Sri Krishna Medical College, Muzaffarpur son of not known, resident of not known

20. Dr. Pramod Kumar Sah, Assistant Professor (Contractual Appointee) Surgery Sri Krishna Medical College, Muzaffarpur son of not known, resident of not known

21. Dr. Nischal Anand, Assistant Professor (Contractual Appointee) Surgery Sri Krishna Medical College, Muzaffarpur son of not known, resident of not known All through the Principal, Shri Krishna Medical College, Muzaffarpur

22. Dr. Rajendra Kumar, Assistant Professor (Contractual Appointee) Surgery Jawaharlal Nehru Medical College, Bhagalpur Son of not known Resident of not known

23. Dr. Pradeep Kuamr Bajaj, Assistant Professor (Contractual Appointee) Surgery Jawaharlal Nehru Medical College, Bhagalpur Son of not known Resident of not known

24. Dr. Awadhesh Kumar Assistant Professor (Contractual Appointee) Surgery Jawaharlal Nehru Medical College, Bhagalpur Son of not known Resident of not known

All through the Principal Jawaharlal Nehru Medical College, Bhagalpur

25. Dr. Vijay Kumar Gupta, Assistant Professor (Contractual Appointee) Surgery Goernment Medcial College, Chhapra son of not known, resident of not known

26. Dr. Alakh Narayan Assistant Professor (Contractual Appointee) Surgery Goernment Medcial College, Chapra son of not known, resident of not known Both through the Principal Government Medical College, Chapra

27. Dr. Pankaj Kumar, Assistant Professor (Contractual Appointee) Surgery Government Medical College, Samastipur

28. Dr. Lalan Kumar, Assistant Professor (Contractual Appointee) Surgery Government Medical College, Samastipur son of not known, resident of not known Both through the Principal Government Medical College, Samastipur

29. Dr. Dinanath Prasad, Assistant Professor (Contractual Appointee) Surgery Goernment Medcial College, Purnea son of not known Resident of not known

30. Dr. Jayant Kuamr Deepak Assistant Professor (Contractual Appointee) Surgery Government Medical College, Purnea son of not known, resident of not known Both through the Principal Government Medical College, Purnea

31. Dr. Shivshankar Paswan, Assistant Professor (Contractual Appointee) Surgery Government Medical College, Madhepura son of not known, resident of not known

32. Dr. Praveen Kumar, Assistant Professor (Contractual Appointee) Surgery Goernment Medcial College, Madhepura son of not known, resident of not known Both through the Principal Government Medical College, Madhepura

.... Respondent/s

Appearance :

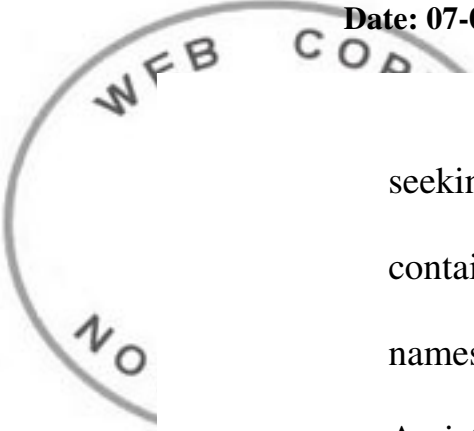
For the Petitioner/s : Mr. Patanjali Rishi

For the Respondent/s : Mr. S K Bharti, AC to GP28

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT

Date: 07-07-2015



The four petitioners have jointly moved the High Court seeking quashing of the Notification No. 44 (17) dated 30.01.2015, contained in Annexure-2, by virtue of which the persons, whose names figure in the said notification, have been appointed as Assistant Professor on contract basis for a period of three years. Their respective place of posting has also been indicated in the said notification. Since these petitioners did not make it to the list of selected candidates, therefore, they have filed the writ application seeking quashing of the notification as well as appointments on the ground that such appointments have been made contrary to the provisions of Bihar Reservation of Vacancies in Posts and Services (For Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1991.

2. Petitioners' counsel has tried to convince the Court that from the list of appointees it is evident that the respondent authorities have exceeded the reservation by more than 50 per cent, which is not permissible under law. The facts and figures have been relied upon to demonstrate the infirmity in such a decision.

3. The true picture does not emerge from a cursory look at a notification. Every decision which is taken has ingredients and



inputs, which are not generally reflected in the final decision-making. The Court has reason to observe as above because after a counter affidavit has been filed on behalf of the State, clearer picture has emerged more so when the original file relating to the decision-making process was called for and has been looked into. After having had a look at the detailed break-ups, it is evident that the calculation has been made upon the number of vacancies available vis-à-vis strength of doctors who are already working on the post under various reserved category. The puzzle unravels itself and clarity emerges now with regard to Annexure-A.

4. The reservation of the posts which are required to be filled up has to be seen in entirety of the sanctioned strength, the number of working people under various categories and left over vacancies. The left over vacancies will also be required to be filled up on the basis of roster clearance.

5. In the present case details of the break-up has been annexed with Annexure-A, which on close look does not reveal that the respondents have exceeded the limit. There is no representation of any of the reserved category candidates at the cost of general category candidates.

6. The challenge is more by a bunch of aggrieved people who have not made it to the list of selected candidates on a perceived

kind of discrimination rather than on any breach of law.

7. Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

U			
---	--	--	--