

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1495 of 2010
IN
Civil Writ Jurisdiction Case No. 7098 of 1993**

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1. The State of Bihar.
 2. The Secretary, Human Resources Development Department, Government of Bihar, Patna.
 3. The Director, Secondary Education, Human Resources Development Department, Government of Bihar, Patna.

.... (Respondent Nos. 1 to 3).... Appellants.
Versus

1. Ashok Kumar Pathak, son of Sri Braj Bihari Pathak, resident of Baghuwa Tola, Police Station.- Pirpainti, District- Bhagalpur.
2. Siyaram Singh, son of Late Harihar Singh, resident of village- Madhura Simanpur, P.S.- Pirpainti, District.- Bhagalpur.
3. Smt. Rekha Kumari, wife of Sri Jitendra Kumar Mishra, resident of Sharma Niwas, 171, Anandpuri, West Boring Canal Road, P.S.- Budha Colony, District.- Patna.
- 4(a).Manoj Kumar, son of Late Ram Pravesh Sharma.
(b).Miss Madhursima, daughter of Manoj Kumar.
(c).Mayank Mani, son of Manoj Kumar.

All resident of village-Jhunathi, P.S. Karpi, District-Jehanabad(now Arwal).

.....(Petitioners).....Respondents 1st set.

4. Vidyalaya Seva Board, Bihar, Patna through its Secretary, 6th Floor, Biscomaun Tower, West Gandhi Maidan, Patna-800 001.
5. Chairman, Vidyalaya Seva Board, 6th Floor, Biscomaun Tower, West Gandhi Maidan, Patna-800 001

....(Respondent Nos.4 & 5)..... Respondents 2nd set.

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Appearance :

For the Appellants : Mr. Madanjeet Kumar, AC to SC-22.
For the Respondent No.1 : Mr. Shardanand Mishra, Advocate.
For the Respondent No.3 : Mr. Gyanand Roy, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 26-06-2015

Heard learned AC to SC-22 for the State, learned counsel
for the Respondent Nos.1 and 3.



2. The issue before the learned Single Judge was whether the writ petitioners were rightly not appointed to the post of Instructors (Vocational Courses) in Intermediate Colleges/+2 Schools of the State. Pursuant to the advertisement issued, the writ petitioners had applied and all the four writ petitioners were selected. The writ petitioner nos.1 and 2 were selected as reserved category candidates belonging to Economically Backward Classes and the writ petitioner nos.3 and 4 were selected as reserved seat for ladies.

3. From the record, it is apparent that after selection even their place of posting was finalized but before the final appointment-cum-posting order was issued, two Ordinances were issued by the State Government. The reservation in respect to Economically Backward Class and Ladies was withdrawn and it was sought to be substituted by Economically and Socially Backward Classes only. The second part of the Ordinances was that it would be effective in relation to the selection process in which the appointment letters have not been issued, thereby with retrospective effect.

4. During the pendency of this writ petition, in another writ petition, the validity of the Ordinances were challenged. This Court declared the Ordinances to be invalid.

5. The matter was carried in appeal in the Apex Court which reversed the Judgment of this Court but while doing so, the

Apex Court clearly held that Ordinances could not apply in case where the selection processes had been completed in all respect but was awaiting for appointment letters to be issued. Thus, so far as the cases of the writ petitioners' are concerned, effectively that would not be hit by the Ordinances. Thus, the learned Single Judge rightly held that the petitioners were not hit by the provisions of the Ordinances and they had a right to be appointed. The writ petitions were accordingly allowed.

6. We, for the reasons, as noted above, see no reasons for interference. The writ petitioners were wrongly deprived of their appointments and it would only be expected from the State to forthwith undo the injustice meted out to the writ petitioners and remedy the situation.

7. With the aforesaid directions and observations, this appeal stands dismissed.

(Navaniti Prasad Singh, J)

(Rajendra Kumar Mishra, J)

P.S./-Bhardwaj

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