

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9356 of 2015

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1. Ashutosh Kumar Son of Sunil Kumar resident of Mohalla- Kunj Niwas Fudan
Das Path Neem Chowk, P.S.- Kazi Mohammadpur District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administrative Department, Government of Bihar, Patna.
3. The Bihar Combined Entrance Competitive Examination Board through its Chairman IAS Association Building, Near Patna Airport, Patna-14.
4. The Examination Controller, Bihar Combined Entrance Competitive Board, I.A.S. Association Building, Near Patna Airport, Patna-14.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Naresh Singh
For the State : Mr. GP26- N.K. SINGH
For the Board : Mr Vikas Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 14-09-2015

Writ has been filed by the petitioner to give him the benefit of the resolution of the State Government dated 22.4.2015 (Annexure- 2), by virtue of which Tellies as a caste have been shifted to the category of Extremely Backward Class from Backward Class. This resolution, according to counsel for the petitioner, was to take effect immediately.

The facts are that the petitioner sat for an examination conducted by Bihar Combined Entrance Competitive Examination Board for the year 2015. He has passed the second stage of examination and he has to appear in the counselling. The reason for filing of the writ application is that he apprehends that he will be

shown to be in the Backward Class category and not Extremely Backward Class category which will have manifestation after the counselling for admission to different courses.

The first date for holding of such an examination was 19.4.2015. At the relevant time the petitioner on the basis of the caste to which he belonged, declared himself to be a Backward caste. The notification contained in Annexure- 2 came to be issued on 22.4.2015. The process for holding of the examination and selection was initiated and completed on the basis of the declaration made by the candidates in their applications and registration made with the respondents.

There is no dispute that at the time when the process of holding of the examination was initiated and exercise started the status of the petitioner was of a Backward Caste. If there is a notification moving him from Backward Caste to Extremely Backward Caste even though the resolution indicates that it will come into play immediately, it can only take effect prospectively for all future examinations, which will be held and conducted by any authority including the Board of Combined Entrance Competitive Examination of Bihar. If midway any changes are effected, it will have serious fall out. The principles are well settled right up till Hon'ble Apex Court that if changes are brought about midway when

the exercise had already been initiated, those changes will take effect prospectively and not half way through the exercise for such selection.

The petitioner for all practical purposes will be required to be treated as a Backward Caste category for the purpose of counselling in this examination. However, for any future examination in which he may participate and qualify, he will surely derive benefit of Annexure- 2 provided such examination or exercise is initiated after 22.4.2015.

In view of the same, petitioner will have no advantage of Annexure- 2. He cannot alter his caste at this juncture. Counselling will be required to be done as a Backward caste category candidate and not Extremely Backward caste.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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