

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.590 of 2014
IN
Civil Writ Jurisdiction Case No. 7264 of 2010

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Chunchun Devi, Wife of Sri Rajkumar Sah, resident of village-
Parsauni Baij, P.S. Piprahi, District- Sheohar.

.... Appellant

Versus

1. The State of Bihar through the Chief Secretary
2. The Principal Secretary, Department of Food and Civil Supplies,
Bihar, Patna
3. The Director, Department of Food and Civil Supplies Bihar, Patna
4. The District Magistrate-Cum-Chairman, District Selection
Committee, Sheohar
5. The Sub-Divisional Officer, Sheohar
6. The District Supply Officer-Cum-Secretary, District Selection
Committee, Sheohar

.... Respondents

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Appearance :

For the Appellant : Mr. Mahendra Thakur, Advocate
Mr. Devendra Kumar, Advocate
Mr. Vijay Kumar, Advocate
For the Respondents : Mr. Deepak Sahay Jamuar, AC to A.A.G.-6

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 21-01-2016

The petitioner is the unsuccessful writ
petitioner and has filed this Intra-Court Appeal being
aggrieved by the judgment and order dated 26.04.2013 passed
by learned Single Judge in C.W.J.C. No. 7264/2010.

2. We have heard learned counsel for the
appellant and learned counsel for the State, and with their

consent, this appeal is being disposed of at this stage itself.

3. The facts are not in dispute. The writ petitioner/appellant had applied for settlement of fair price shop claiming to be lady of Extremely Backward Class in the category reserved for Backward Class persons. Initially, the Selection Committee recommended her case, but thereafter, the Selection Committee recalled the recommendation. This order of recall was challenged subsequently in the writ proceeding by way of interlocutory application which was allowed to be so challenged, but upon hearing the writ petition, it was dismissed.

4. The contention of the petitioner was that being a woman of Extremely Backward Class by virtue of Section 2(k) of the Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1991 (hereinafter referred to as “Bihar Reservation Act”), she would be deemed to be woman of Backward Class, and as such she would be entitled for selection under the category reserved for Backward Class.

5. At the very outset, we may note, in fairness to the learned counsel for the appellant that, writ petitioner/appellant does not contend that she was a woman



belonging to Backward Class, rather, her specific case was that she belongs to Extremely Backward Class. Backward Class and Extremely Backward Class are two different and distinct categories. We may also note that she lay no claim on the basis of any reservation separately made for women of the Backward Classes, because, there was no such allocation. Before proceeding further, we may quote the provisions of Section 2(k) and 4(2) of the Bihar Reservation Act, which reads as such:

2(k). “Women of Backward Classes” means and includes women of Scheduled Castes, Scheduled Tribes, extremely Backward and Backward Classes.

4(2). The vacancies from different categories of reserved candidates from amongst the 50% reserved categories shall, subject to other provisions of the Act, be as follows:-

(a) Scheduled Castes	... 16%
(b) Scheduled Tribes	... 01%
(c) Extremely Backward Class	... 18%
(d) Backward Class	... 12%
(e) Woman of Backward Classes	... 03%
Total	... 50%

6. By reference to the aforesaid two provisions, it is clear that had there been a separate



reservation of fair price shop in favour of women of Backward Classes, the writ petitioner/appellant would surely have a chance because the expression used is 'Backward Classes' and not 'Backward Class'. Therefore, a woman of Backward Class in view of the definition under Section 2(k) would include women of Scheduled Castes, Scheduled Tribes, Backward Class and Extremely Backward Class as the Act separately provides for 3% reservation in respect of such women. This is in addition to reservations in other categories in general for Scheduled Castes, Scheduled Tribes, Backward Class and Extremely Backward Class. Section 4(2) would show that the sum total reservation including 3% for such Backward Classes of women comes only to 50%, but the problem in the present case is otherwise.

7. On the facts, it is clear that there was no separate reservation in respect of women of Backward Classes. Thus, wherever the writ petitioner/appellant applied she could either be considered upon general merits in the general i.e. unreserved category, or, as she belonged to Backward Class in Backward Class category alone. She was admittedly not a Backward Class person, but belonged to extremely Backward Class category. Thus, by definition of

Section 2(k), she cannot get benefit in any event, because there is no separate reservation for women in distribution and settlement of fair price shop.

Thus, we see no reason to interfere with the order of learned Single Judge. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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