

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.692 of 2015

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Akhil Bhartiya Atyant Pichda Utthan Morcha, 8th Floor, Gharounda Complex,
Jagdeo Path More, P.S. - Hawai Adda, Distt. - Patna. through its Deputy Covener
Ravi Vatsyan S/o - Ram Autar Vatsyan, R/o - Janki Niwas, B.K. Dutta Lane,
Jakkanpur, P.S. - Jakkanpur, Distt. - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, General Administration Dept, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ghosarvey, Advocate
For the Respondent/s : Mr. Ranjan Kr. Singh, A.C. to P.A.A.G.-2

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 30-11-2016

The petitioner has invoked the writ jurisdiction of this Court in public interest seeking to increase reservation quota fixed for Extremely Backward Class in comparison to the Backward Class.

Learned counsel for the petitioner contends that in terms of Section 5(2) of the Bihar Reservation of Vacancies in Post and Services (For Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1991, the reservation policy has to be reviewed after every 10 years. The last review of the reservation in the Backward Classes was conducted in the year 2002, therefore, the State



Government is failing in its duty to review the reservation policy in terms of the mandate of the Statute.

In the counter affidavit filed, it is, *inter alia*, averred that there are five categories of reserved classes, namely, (i) Scheduled Caste, (ii) Scheduled Tribe, falling under the jurisdiction of the Government of India, and (iii) Extremely Backward Class; (iv) Backward Class; and (v) Woman of Backward Classes falling under the jurisdiction of the State Government. The State Government has provided reservation of 14%, 10% and 2% in respect of candidates belonging to Extremely Backward Classes, Backward Class and Women of Backward Class. It is also averred that the State has constituted two Commissions, namely, the State Commission for Backward Classes vide Bihar Act 12/1993 and State Commission for Most Backward Classes and such Commission deals with the matter of inclusion and exclusion of the Backward Classes or Most Backward Classes. It is averred that it is not possible for the Government to amend the ratio of reservation percentage at the time of every inclusion or exclusion in the list of Backward Class and Extremely Backward Class. It is also averred that it has been decided that there will be no change in the reservation category during the process once started for appointment/promotion/admission vide Memo dated 28.11.2012. Thus, there would be no change in the vacancies already advertised for any category during the selection process.



We have heard learned counsel for the parties and find that no direction can be issued for review of the reservation policy in terms of sub-section (2) of Section 5 of the Act. It transpires from the counter affidavit filed on behalf of the State that the reservation of the Backward Class and Extremely Backward Class is considered by the State Commission and on their recommendation, the matter of inclusion and exclusion is dealt with. Since the process is continuous, there cannot be any direction that particular caste should be included in either of the two lists or that the ratio reserved for Extremely Backward Class or Backward Class should be changed. These are the matters which fall within the policy of the State Government. We do not find that any direction can be issued for increasing the reservation in the manner sought by the petitioner.

We do not find any merit in the present writ petition.
The same is, thus, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Sunil

AFR/NAFR	N. A. F. R.
CAV DATE	N. A.
Uploading Date	07.12.2016
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