

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1970 of 2010
IN
Civil Writ Jurisdiction Case No. 994 of 2006**

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Ravindra Kumar, S/O Sri Ram Lakhan Prasad, R/O Balibhadrapatti, P.S.-
Uchkagaon, Distt.- Gopalganj

.... Appellant/s

Versus

1. The State of Bihar through the Secretary Agriculture Department, Govt. of Bihar, New Secretariat, Patna
2. The Joint Secretary, Agriculture Department, Govt. of Bihar, New Secretariat, Patna
3. The Director, Agriculture Department, Govt. of Bihar, New Secretariat, Patna
4. The Bihar Public Service Commission through its Secretary, Bailey Road, Patna
5. The Officer On Special Duty, Bihar Public Service Commission, Bailey Road, Patna

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Man Mohan, Advocate Mr. Vikas Mohan, Advocate
For the State	:	Mr. Brajesh Kumar, AC to AAG-4
For the Commission	:	Mr. Subodh Chandra Jha, Advocate

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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: 17-10-2016

Heard learned counsel for the appellant, who is none other than the writ petitioner, learned counsel for the State and learned counsel for the Bihar Public Service Commission, Patna (hereinafter referred to as the Commission).

The facts are not in dispute. It appears that the Department of Agriculture, Government of Bihar sent requisition to the Commission for appointment to the post of Inspector, Weights and Measure. Accordingly, Commission issued Advertisement No.



107/1998. Accordingly, the writ petitioner-appellant also applied. He applied under the category of Scheduled Tribe claiming to be belonging to 'Gond' tribe on the strength of certificate granted by the Deputy Commissioner, Chaibasa (West Singbhum). He had shown his address as Saraikela, West Singbhum. While the process of selection was under way, State of Bihar was bifurcated with effect from 15.11.2000. Saraikela and Chaibasa both now fell within the jurisdiction of the State of Jharkhand. However, Commission completed the selection process and recommended the names of 14 persons including the writ petitioner-appellant for being considered for appointment to the post of Inspector, Weights and Measure vide their letter No. 1024 dated 08.01.2003. The writ petitioner-appellant was placed at Serial No. 14 in the merit list and he was the only candidate recommended under the category of Scheduled Tribe, there being one reserved vacancy for Scheduled Tribe. Upon bifurcation of the State and consequential bifurcation of cadres, State of Bihar asked the Commission to revise the list. Accordingly, this time Commission recommended the list of 8 candidates including the writ petitioner-appellant showing him to be Scheduled Tribe, but informed that the matter in regard to the status of the writ petitioner-appellant was being enquired into, inasmuch as, a person may be Scheduled Tribe for the State of Jharkhand, he would not be a Scheduled Tribe for the State of



Bihar. Ultimately, State of Bihar then issued notification treating Gond/ Gonr as OBC. There were certain controversies in this regard. While these controversies were pending, the selection process was completed, except with regard to the seat reserved for Scheduled Tribes on which writ petitioner- appellant was the sole recommendee by the Commission. It is at that stage the writ petition was filed. Learned Single Judge noticing that the writ petitioner- appellant had claimed to be a Scheduled Tribe, State of Bihar had notified Gond as OBC and, hence, the writ petitioner- appellant did not satisfy the selection criteria, and dismissed the writ petition. Hence, the appeal.

A detailed counter affidavit has been filed on behalf of Respondent Nos. 4 and 5 (the Commission) in which the entire history has been given. It has been noticed therein that now the State Government considering the entire controversy in question resolved and notified that Gond would be treated as Scheduled Tribes for the purposes of Bihar and this has been circulated vide Memo No. 695 dated 28.02.2007 (Annexure-H to the said counter affidavit). This counter affidavit also mentions that upon bifurcation of the State of Bihar the writ petitioner-appellant submitted fresh Scheduled Tribe certificate issued by the District Magistrate-cum-Collector, Gopalganj showing the writ petitioner-appellant to be a Gond. He has also filed permanent residence certificate from the District Magistrate-cum-



Collector, Gopalganj stating that earlier his father being in service and posted at Saraikela he had shown his residence at Saraikela. His father having retired and they having been returned to their native village in the district of Gopalganj, he had, accordingly, informed the Commission. Thus, the writ petitioner-appellant complied with the requirements of the said advertisement and had already been selected and recommended by the Commission, but because of the controversies as noticed above, State did not take any decision in the matter.

From the facts aforesaid, it would be clear that for the reserved post, reserved for Scheduled Tribes, writ petitioner-appellant was the sole recommendee even after bifurcation of the State of Bihar. This reserved post remained in Bihar for which writ petitioner-appellant was the sole recommendee. All other posts have been filled up but this post remained unfilled.

In view of the aforesaid fact, we have no alternative but to hold that non-consideration of writ petitioner-appellant's position for appointment by the State was wrong. Writ petitioner-appellant has to be treated as Scheduled Tribes candidate for the sole reserved seat in this regard. He was duly recommended by the Commission. Accordingly, State has to take a final decision on the available seat for which he was recommended by the Commission.

We would, accordingly, direct the State to take a decision in respect of selection of the writ petitioner- appellant to the post of Inspector, Weights and Measure, pursuant to the aforesaid advertisement, within a period of one month from today.

With this direction, this appeal is allowed. Order of the learned Single Judge dated 01.10.2010, passed in C.W.J.C. No. 994 of 2006 is set aside.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

AFR/NAFR	AFR
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