

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17255 of 2008

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Kaushalya Kumari @ Koushlya Kumari, wife of Sanjay Kumar, resident of
Village Pritampur, P.O. Tengra, P.S. Barun, District Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Aurangabad
3. The Sub Divisional Officer, Aurangabad
4. The Mukhiya, Gram Panchayat, Jankope, Barun Block, District Aurangabad.
5. The Sarpanch, Gram Panchayat Jankope, Barun Block, District Aurangabad
6. Pratibha Kumari, wife of Jitendra Ram, resident of Village Urdina, P.O. Urdina, Police Station Barun, Distinct Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhanu Pratap Singh

For the State : Mr. Sheo Shanker Prasad, SC 8

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 05-01-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

In the present case, petitioner is claiming for
appointment on the post of Panchayat Secretary.

Petitioner could not be appointed but respondent no.6,
namely, Pratibha Kumari, was appointed as Panchayat
Secretary. Petitioner and respondent no.6 are from reserve
category candidates. Respondent no.6 has been appointed on
the basis of physical disability category. As per claim of the
State roaster point was fixed for handicapped lady of scheduled
caste as she had filed the certificate of her disability. She was



appointed on the said post.

The reservation on physical disability which is a horizontal reservation, not a vertical reservation. Reservation is granted for Class not on the basis of caste. Reference can be made on the judgment of the Hon'ble Supreme Court in the case of Union of India v. National Federation of Blind, reported in (2013)10 SCC 772 where Hon'ble Supreme Court has held that while granting reservation on physical disability there cannot be reservation on the basis of caste. However, this issue is not required to go into as respondent no.6 has already tendered resignation. She is no longer in service and Panchayat Secretary of Barun Block is working as In-charge Panchayat Secretary of present Gram Panchayat.

In such view of the matter, the concerned authority is directed to issue fresh advertisement for making fresh selection. Petitioner will be at liberty to apply for the same and her case will be considered in accordance with law.

With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

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