

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3783 of 2015

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Rukmini Kumari W/o Sachidanand Das, resident of village and P.O. Bakhmar,
Gram Panchayat Bhorchoura, Block- Babu Barhi, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Director, Research and Training, Government of Bihar, Patna.
3. District Magistrate, Madhubani.
4. District Education Officer, Madhubani.
5. District Programme Officer, Education Project, Madhubani.
6. Block Education Officer, Babu Barhi, Madhubani.
7. Principal, District Institute of Education and Training, DIET, Narar, Madhubani.
8. Binod Kumar Ram, S/o Late Dayani Ram, Resident of village- Baruar, Panchayat- Bhat Chaura, P.S. - Babubadi, Dist- Madhubani.

.. ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Advocate
For the Respondent/s : Mr. Upendra Kumar Singh, AC to GA-8
For Respondent No.8 : Mr. Subhash Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 27-11-2018

Heard learned counsel for the petitioner and the respondents.

The petitioner is aggrieved by the arbitrary action of the respondents in deciding the case of private respondent no.8 against the post earmarked for Scheduled Castes.

Learned counsel for the petitioner submits that the petitioner and respondent no.8 belongs to the same Scheduled Castes category, whereas the petitioner is possessing 61.4% marks and respondent no.8 has only scored 51.1% marks, yet the respondents have decided to appoint respondent no.8 in the



Scheduled Castes category ignoring the merit position of the petitioner.

Learned counsel appearing on behalf of respondent no.8 submits that the respondent no.8 is a male candidate and since in the general category female has been appointed, therefore, the petitioner being male is entitled to preferential treatment in the matter of appointment against Scheduled Castes category, although he admits that the petitioner has more than 10% marks above the respondent no.8, but the fact remains that the petitioner is a female and as such in the category of Scheduled Castes the respondent no.8 has been preferred.

The idea of reservation is affirmative action. The protective discrimination adopted in the matter of appointment is to uplift the Backward Class category including the Scheduled Castes category and among the Scheduled Castes category females are the most vulnerable and as such they are entitled to protection and affirmative action, but unfortunately the respondents have adopted hostile attitude in the matter of consideration of the case of petitioner for appointment.

There is no dispute that the petitioner and respondent no.8 belongs to the same category i.e. Scheduled Castes category. There is also no dispute that the petitioner has advantage of 10% marks above the respondent no.8.



Under the aforesaid circumstances, the Court fails to understand the action of the respondents in appointing respondent no.8 in place of petitioner ignoring her higher marks. Accordingly, the Court holds that in the matter of appointment petitioner having more marks, belonging to the same category is entitled to preference in the matter of appointment.

In view of the above, the action of the respondents ignoring the merit of the petitioner is held to be unconstitutional and violative under Articles 14 and 16 of the Constitution of India. The respondent District Programme Officer, Education Project, Madhubani is directed to consider the case of the petitioner for appointment strictly in accordance with her merit position in Scheduled Castes category. Necessary corrective measures/decision in this regard must be taken by the respondents within a period of four months from the date of receipt/production of a copy of this order.

The writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2018
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