

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5191 of 2017

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Anant Kumar Sharma Son of Sri Prasad Sharma Resident of Village/Mohalla-Khutahari, Post Office- Lalapur Bhader, Police Station- Kahalgaon, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development (Higher Education), Government of Bihar, Patna.
2. The Secretary, Department of Education, Government of Bihar, Patna.
3. The Additional Secretary, Department of Education, Government of Bihar, Patna.
4. The Bihar Public Service Commission through its Secretary, 15 Jawaharlal Nehru Marg, Bailey Road, Patna.
5. The Secretary, Bihar Public Service Commission, 15- Jawaharlal Nehru Marg, Bailey Road, Patna.
6. The Additional Secretary-cum-Examination Controller, Bihar Public Service Commission, Jawaharlal Nehru Marg, Bailey Road, Patna
7. Kousar Ali Son of not known to the Petitioner Roll No. -52010019, Appointed in the Jay Prakash Narayan University in the Subject of Economics.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar Sinha, Sr. Advocate Mr. Balram Kapri, Advocate
For the State	:	Mr. Madhaw Prasad Yadav-GP23 Mr. Arvind Kumar, AC to GP-23
For the BPSC	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 15-03-2018

Herd learned counsel for the petitioner, State and the Bihar Public Service Commission.

2. Mr. Devendra Kumar Sinha, learned senior counsel appearing on behalf of the petitioner submits that in terms of the notification dated 22nd April, 2015, Annexure-4 to the writ petition the petitioner's case ought to have been considered by the respondent-Bihar Public Service Commission, treating the petitioner as EBC category candidate as the caste to which the



petitioner belongs has been included in the category of EBC vide notification dated 22.4.2015, Annexure-4 to the writ petition. The decision of the State Government was earlier to the date of interview and as such on the date of interview the petitioner was in the EBC category and as such the respondent Commission was required to consider the case of the petitioner in the EBC category for selection but it has treated the petitioner in BC category and as such the petitioner has not been granted fair treatment by the respondents in the selection process.

3. Mr. Sanjay Pandey, learned counsel for the Bihar Public Service Commission submits that the last date for submission of the application was initially 20th of November, 2014 but extended upto 05.1.2015. The eligibility is to be decided in the category of reservation as on 5.1.2015 and on the date of submission of the application, i.e. 5.1.2015 the petitioner was in the category of BC and as such he was entitled to be considered as BC category candidate and the Commission has rightly considered the case of the petitioner in the BC category.

4. Mr. Pandey submits that the BPSC has prepared the merit list and has recommended the case of the candidates belonging to BC category as per the merit list. According to Mr. Pandey the petitioner has obtained 60.20 marks whereas the last



candidate selected for appointment in the BC category has obtained 64.30 marks and as such the petitioner does not come within the zone of consideration for selection and recommendation. He submits that the Barai caste was included in the list of EBC category vide notification dated 22nd of April, 2015, Annexure-4 only and from perusal of the notification it would be evident that the notification is prospective in nature and will not operate with retrospective date. Therefore, the inclusion of Barai caste in EBC category is only from 22.4.2015 and it cannot operate from the date anterior to the date of notification and as such the case of the petitioner for consideration and inclusion in EBC category is unsustainable.

5. In view of the aforesaid, the court does not find any error in the decision of the Commission in treating the petitioner in the BC category in the preparation of the merit/ select list and recommendation for appointment of Lecturer in Economics.

6. So far as the other grievance of the petitioner that respondents have not disclosed the cut off marks for appointment of lecturer in Economics in the B.C. category and the fact whether all the post in the B.C. category has been filled up or not, Mr. Pandey submits that the petitioner can get information under the



Right to Information Act and there is no occasion for this Court to issue any direction in this regard.

7. It is statutory right available to any person under the Right to Information Act to solicit any such information and the authority is liable to provide it.

8. In view of the above, the writ petition, so far as the claim of inclusion of the name of the petitioner in EBC category for selection is unsustainable. It is accordingly rejected.

9. However, liberty shall be available to the petitioner to obtain information under the Right to Information Act and the BPSC and the State are obliged to provide such information in accordance with the provisions of the Right to Information Act.

10. With the aforesaid, the writ petition stands dismissed.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.3.2018
Transmission Date	

