

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9176 of 2010

Sujata Singh, D/O Late Braj Nandan Prasad Singh, R/O Chakaram, North
S.K. Nagar, P.S. - Budha Colony, District- Patna.

... .. Petitioner

Versus

1. State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
4. Bihar Public Service Commission through Chairman, Bihar Public Service Commission, Bailey Road, Patna.
5. Chairman, Bihar Public Service Commission, Bailey Road, Patna.
6. Joint Secretary-cum-Special Executive Officer-cum-Examination Controller, Bihar Public Service Commission, Bailey Road, Patna.
7. Rozy Kumari, Roll No. 156194, D/O not known.
8. Rakhi Kumari, Roll No. 117998, D/O not known.
9. Aruna Kumari, Roll No. 127665, D/O not known.
10. Anisha Singh, Roll No. 362361, D/O not known.
11. Baby Kumari, Roll No.133027, D/O not known.
12. Suresh Kumar
13. Nidhi Raj
14. Manas Milind
15. Menka Singh
16. Poonam Keshari
17. Switi Suman
18. Reeta Singh
19. Anirudha Prasad Yadav
20. Pawan Kumar
21. Vikash Kumar
22. Vijay Kumar
23. Lovely
24. Seema Kumari
25. Sanjula Kumari
26. Punam Kumari

All through the Chairman, Bihar Public Service Commission,
Bailey Road, Patna.



... .. Respondents

with

Civil Writ Jurisdiction Case No. 15004 of 2010

Jagriti Prabhat, daughter of Awadhesh Kumar, resident of Station Road Hilsa,
P.S.Hilsa, Distt-Nalanda.

... .. Petitioner

Versus

1. The State of Bihar, through Principal Secretary, Department of General Administration, Government of Bihar, Patna.
2. The Chairman, Bihar Public Service Commission Bailey Road, Patna
3. The Secretary, Bihar Public Service Commission Bailey Road, Patna

... .. Respondents

with

Civil Writ Jurisdiction Case No. 10616 of 2011

Smt. Ratna Prasad, daughter of Sri Guru Sahay Prasad, resident of A-40,
Ashokpuri Colony, Khajpura, P.O. B.V. College, P.S.-Shastrinagar, Distt.
Patna-800014.

... .. Petitioner

Versus

1. The State of Bihar, through Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Govt. Of Bihar, Old Secretariat, Patna.
3. Secretary, Personnel and Administrative Reforms Department, Govt. Of Bihar, Patna.
4. Bihar Public Service Commission through its Chairman, Bailey Road, Patna.
5. Chairman, Bihar Public Service Commission, Bailey Road, Patna.
6. Joint Secretary-Cum-Officer On Special Duty-Cum-Examination Controller, Bihar Public Service Commission, Bailey Road, Patna.
7. Ms. Rozy Kumari, Roll No. 156194, D/O Name Not Known.
8. Ms. Rakhi Kumari, Roll No. 117998, D/O Name Not Known.
9. Ms. Menka Singh, Roll No. 132669 D/O Not Known.
10. Ms. Aruna Kumari, Roll No. 127665 D/O Not Known.
11. Ms. Anisha Kumari, Roll No. 362361 D/O Not Known.
12. Ms. Baby Kumari, Roll No. 133027 D/O Not Known.
13. Ms. Lovely, Roll No. 196534



14. Ms. Seema Kumari, Roll NO. 142310
15. Ms. Sanjula Kumari, Roll NO. 178301
16. Punam Kumari, Roll No. 127111
17. Mr. Suresh Kumar, Roll No. 235600
18. Ms. Nidhi Raj, Roll NO. 351049
19. Mr. Manas Milind, Roll No. 211901
20. Ms. Poonam Keshari, Roll No. 237395
21. Ms. Switi Suman, Roll No. 158146
22. Ms. Reeta Singh, Roll No. 138112
23. Mr. Vikash Kumar, Roll No. 249461 not known.

All through Chairman, Bihar Public Service Commission,
Bailey Road, Patna.

... .. Respondents

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Appearance :-

(In Civil Writ Jurisdiction Case No. 9176 of 2010)

For the Petitioner/s	:	Mr. Siddhartha Prasad, Advocate
For the State	:	Mr. Alok Ranjan, A.C. to A.A.G.-5
For the B.P.S.C.	:	Mr. Lalit Kishore, Senior Advocate
		Mr. Satyabir Bharti, Advocate
For Private respondents	:	Mr. Amaresh Kumar Sinha, Advocate
		Mr. Alok Choubey, Advocate
		Mr. Manikved Sen, Advocate
		Mr. Subash Chandra, Advocate
		Mr. S.K. Ranjan, Advocate

(In Civil Writ Jurisdiction Case No. 15004 of 2010)

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Suman Kumar Jha, A.C. to A.A.G.-3
For the B.P.S.C.	:	Mr. Lalit Kishore, Senior Advocate
		Mr. Satyabir Bharti, Advocate
For the private Respondents:		Mr. Mukesh Kumar Singh, Advocate

(In Civil Writ Jurisdiction Case No. 10616 of 2011)

For the Petitioner/s	:	Mr. Rohitabh Das, Advocate
For the State	:	Mr. Raghwendra Kumar, S.C.-22
For the B.P.S.C.	:	Mr. Lalit Kishore, Senior Advocate
		Mr. Satyabir Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

C.A.V. JUDGMENT

Date : 25-09-2019

Heard learned counsel appearing for respective
parties.



2. In all the three cases, identical issues have been raised and as such, all these writ petitions are being disposed of by this common judgment. For convenience, the facts of C.W.J.C. No. 9176 of 2010 are taken into consideration for adjudication these cases, as and when it will be deemed necessary the facts of other cases will also be taken into consideration.

3. In the present case, the petitioner is seeking relief for giving direction to respondents to make necessary amendments / correction in the final result, published by the Bihar Public Service Commission in connection with 48th to 52nd Common Combined Competitive Examination pertaining to Advertisement No.04 of 2007. Further, sought a relief that the petitioners should be given the proper placement in terms of their respective options, accordingly, they should be allotted and adjusted in the Bihar Administrative Service instead to the post of Labour Superintendent, as the petitioners have secured better rank than the private respondents, who have been selected and allotted different posts in Bihar Administrative Service.

4. The State of Bihar sent the requisition for recruitment of candidates in different departments of the State of Bihar, accordingly, an advertisement was published on



06.11.2007, inviting applications from interested persons having requisite qualification. In pursuance of the said advertisement, all the three petitioners along with others have filed their respective applications, giving their respective options in seriatim as well as they opted for reservation in option-5 i.e. Backward Class and option-6 i.e. Backward Class Female. Preliminary examination was conducted on 25.05.2008, the result of preliminary test was published on 19.09.2008, petitioners were declared successful in the preliminary examination, accordingly, they appeared in the mains examination, which was conducted in the year 2009. The result of mains examination was published by the Bihar Public Service Commission, the petitioners secured their respective places, whereafter they were called for interview, to which they appeared on different dates, the final result was published on 10.04.2010 (Annexure-6 of C.W.J.C. No. 10616 of 2011). Smt. Ratna Prasad (Petitioner of C.W.J.C. No.10616 of 2011) secured her place at serial no.232 in the merit list (Backward Class), was appointed as Labour Superintendent, Sujata Singh (petitioner of C.W.J.C. No. 9176 of 2010) secured her place at serial no.252 in the merit list (Backward Class), was appointed as Labour Superintendent and Jagriti Prabhat (petitioner of C.W.J.C.



No.15004 of 2010) secured her place at serial no.242 in the merit list (Backward Class), was appointed as Assistant Election Officer and those who are below in rank to these petitioners, namely, Rosy Kumari, who is at Serial No. 283 (Backward Class Female), Rakhi Kumari, secured her place at serial no.346 (Backward Class Female), Menka Singh, secured her place at serial no.348 (Backward Class Female), Aruna Kumari, secured her place at serial no.361 (Backward Class Female), Anisha Singh, secured her place at serial no.372 (Backward Class Female) and Baby Kumari, secured her place at serial no.383 (Backward Class Female) in the merit list, all have been adjusted in the Bihar Administrative Service, is the cause of hurt-burning to these petitioners, claiming that their position in the merit list is superior in rank, but they have been appointed in inferior services like Labour Superintendent as well as Assistant Election Officer whereas the private respondents, who are below in merit list to these petitioners have been appointed in the Bihar Administrative Services.

5. Smt. Ratna Prasad, filed a representation dated 15.04.2010 (Annexure-8), wherein she stated that her position is better than Rakhi Kumari and others have been appointed in the Bihar Administrative Service in the category of Backward Class



Female, having stated that they too have also opted for Backward Class Female category, so she should be given the rightful place in the Bihar Administrative Service. Another representation was filed on 07.03.2011 (Annexure-9) by Smt. Ratna Prasad, reiterating the same facts and requested the authority to do justice with her by giving her rightful place in the Bihar Administrative Service in the background of fact that those who are below in merit list have been allotted plum posts, whereas they have been appointed as Labour Superintendent (inferior post). She sought an information from the Bihar Public Service Commission under the Right to Information Act, formulating the question in the shape that she secured 232 rank in the merit list, she had also applied under the category of Backward Class Female, but in the final result she has not been considered in that category, inasmuch as, she had opted for the Bihar Administrative Service, but the same has not been allotted to her. Further question was framed, whether the Bihar Public Service Commission has considered her candidature in the category of Female Backward Class candidate and as to whether she has been given reservation in the category of Backward Class Female, sought the reasons for appointing candidates, who are lower in rank to her, but appointed in the Bihar



Administrative Service. The Bihar Public Service Commission vide letter no.18.05.2011 sent the reply by attaching the letters and Resolution (Annexures - 11, 12 and 13 of C.W.J.C. No. 10616 of 2011). From perusal of the Resolution, it appears that there was no provision for migration in between the Backward Class vis-a-vis Backward Class Female and also mentioning therein that persons of Backward Caste having better marks have been adjusted against the vacancies of Backward Class Category and those female of Backward Caste candidates, who could not be selected, residuary left out in merit list, have been adjusted in the Backward Class Female category vacancies. The claim of the petitioners for migration to Backward Class Female category was entertained.

6. Learned counsel for the petitioners placed reliance on the following judgments in support of the claim of the petitioners:-

- (i) ***Rajesh Kumar Daria vs. Rajasthan Public Service Commission and Others*** reported in ***2007 (8) SCC 785.***
- (ii) ***The Controller of Examination, Bihar Combined Entrance Competitive Examination, 1999 Vs. Nidhi Sinha & Anr.,***



reported in **2016 (3) PLJR 273.**

(iii) ***Tripurari Sharan and Another vs. Ranjit Kumar Yadav and Others*** reported in **2018 (2) SCC 656.**

(iv) ***Anurag Patel vs. U.P. Public Service Commission and Others*** reported in **2005 (9) SCC 742.**

(v) ***Union of India v. Ramesh Ram and Ors.,***
reported in **(2010) 7 SCC 234.**

7. By placing reliance the above judgments, learned counsel for the petitioners submits that as the petitioners have secured better place in the merit list than to the private respondents in Backward Category candidates and as such, they should have been adjusted in the Bihar Administrative Service, but instead of giving the benefit of first option, have been appointed as Labour Superintendent as well as Assistant Election Officer, which are inferior category posts.

8. Learned counsel for the petitioners has also placed reliance on Memo no.04 of 2009-363 of the Finance Department, Government of Bihar, showing Premier Service of the State in the pay scale of Rs.8,000-13,500/-, which has been



arranged in the following seriatim; (i) Bihar Administrative Service (ii) Bihar Police Service (iii) Bihar Finance Service (iv) Bihar Health Service (v) Bihar Engineering Service and (vi) Bihar Veterinary Service, submits, those who are below in rank in merit list have been given premier services of Bihar Administrative Service, in such circumstance, in terms of the decision of the *Ramesh Ram's case (supra)* the petitioners are also entitled for migration, as per their options given in the application forms, in the Backward Class as well as Backward Class Female Category.

9. However, learned counsel for the State did not dispute the proposition raised by the petitioners and also the claim of the petitioners for their adjustment in the Bihar Administrative Service and tacitly agreed to the submission of learned counsel for the petitioners.

10. Learned counsel for the Bihar Public Service Commission accepts that there should have been first migration and second migration, which has not been done and according to the judgment of the Hon'ble Supreme Court in the case of *Ramesh Ram (supra)* the petitioners should have been granted better place in the Bihar Administrative Service, but submits that after such a long period if the petitioners will be migrated it



will bring “*tsunami*” in the sense that there will be an administrative chaos and everyone will be disturbed. If such exercise is embarked, it may lead to a situation that the private respondents, who have been working in the Bihar Administrative Service since long, on implementation of the second migration, they may lose their services, so it will not be desirable and equitable that after such a long lapse of time this second migration should be acted upon and the petitioners should be adjusted in the Bihar Administrative Service and placed reliance on the judgment reported in ***Ravindra Kumar Singh vs. High Court of Judicature at Patna*** reported in **2016 (1) PLJR 865**.

11. It has further been submitted that the services which have been allotted to the petitioners are out of their choices, so it will not be desirable to interfere in the matter. In support of his submission, he placed reliance on the following judgments:-

- (i) ***Sudhansu Moses vs. The State of Bihar through the Chief Secretary and Ors.***
reported in **2015 (4) PLJR 521**.
- (ii) ***Rajesh Kumar and Others v. State of Bihar***



and Others reported in ***(2013) 4 SCC 690.***

12. The private respondents and possible effecting parties have also appeared and made their respective submissions by different counsel. Learned counsel for respondent nos. 23, 25 and 26 has also placed reliance on the decision rendered in the case of ***Rajesh Kumar and Others v. State of Bihar and Others*** reported in ***(2013) 4 SCC 690.***

13. Learned counsel for respondent no.16 has submitted that woman is a category of backward class and the idea of reservation is to maximize the involvement of the woman in Government service and as such, these respondents should not be disturbed as the implementation of the Policy will cause a prejudice to these respondents, in support of submission, placed reliance on the decision of the Hon'ble Supreme Court rendered in the case of ***Union of India vs. Ramesh Ram and Ors.*** reported in ***2010 SC 2691 para 44*** and submits that as there is no Rule in terms of Article 16 (1) (2) of the Constitution, inasmuch as the Policy has been framed and implemented in terms of the judgment rendered in the case of ***Chandrashekhar Azad vs. State of Bihar and Ors.*** reported in ***2007 (3) PLJR 391*** and further placed reliance on the decision rendered in the case of ***Union of India vs. M.K. Sarkar (2010)***



2 SCC 59, paras- 25 and 26 and *Union of India vs. Chaman Rana* reported in (2018) 5 SCC 798, paras 9 to 11.

14. In the present case, two questions has to be answered as to whether it was obligatory on the part of the Commission to embark the second migration in terms of the Backward Class candidate vis-a-vis Backward Class Female candidate and the petitioners should have been granted the better services as per their respective options in view of their better position in the merit list than the private respondents of these writ petitions, as explained herein-above that admittedly the petitioners are in better position in the merit list whereas the private respondents are below in the merit list, but on account of their adjustment in Backward Class Woman category they have been selected and appointed under the Bihar Administrative Service. Second, whether this Court should give a direction for adjustment of these petitioners in the Bihar Administrative Service in terms of the second migration on account of better position in the merit list in view of fact that such exercise will bring a “tsunami” i.e. administrative chaos in the whole administrative set up, inasmuch as, there is all possibility, on induction of present petitioners in the Bihar Administrative Service, the private respondents might be losing their services



and the persons who are outside the fence sitting idle would get an entry in the service, it will be nothing but a windfall to them. It will also lead to a situation that entire placement will get disturbed, in such a situation, will it be desirable for this Court to give such a direction for adjustment of these petitioners in the Bihar Administrative Service or to allow the petitioners to continue to hold same posts.

15. For giving answer to the first question, it would be necessary to consider the case of *Ramesh Ram (supra)*, there the question arose with regard to backward class candidates, who secured better rank and secured place in the unreserved category candidate, but they could not be placed at top three services, whereas those below in the merit list have been adjusted in the backward category vacancy, secured their position in the top three services and the question arose with regard to migration and the Court has held that if they have done better, which should not act as prejudice to their interest, if they do not opt for migration then they will be treated to be a general category candidate and those who have been adjusted under the reserved category candidate will remain unaffected, but in the event those who have secured better marks, have sought their migration to the Backward Class, in such circumstance, the



persons below in the merit list adjusted in the Backward Class category, will not have a precedence and the persons who are below in rank will have to vacate the place for those who have better marks and they will be pushed down.

16. It will be relevant to quote paragraph nos. 42, 56, 60, 70, 71 and 72 of the aforesaid judgment, which are as follows:-

“42. Therefore, we are of the firm opinion that MRC candidates who avail the benefit of Rule 16(2) and are eventually adjusted in the reserved category should be counted as part of the reserved pool for the purpose of computing the aggregate reservation quotas. The seats vacated by MRC candidates in the general pool will therefore be offered to general category candidates. This is the only viable solution since allotting these general category seats (vacated by MRC candidates) to relatively lower-ranked reserved category candidates would result in aggregate reservations exceeding 50% of the total number of available seats. Hence, we see no hurdle to the migration of MRC candidates to the Reserved Category.

56. The said observations are not of any assistance as no MRC candidate occupying a general category slot is being counted against the quota for the reserved category. For example those MRC candidates belonging to the OBC category



who cut across the general qualifying standard and are appointed to general posts are not being counted within the 27% quota earmarked for OBCs. However, MRC candidates who retain their reserved status and avail of the benefit of Rule 16 (2) to occupy a reserved post are counted against the reservation quota. When MRC candidates do not choose to accept the general category slot available to them on account of their merit, but opt to occupy a slot reserved for reservation category candidates, because that post is more attractive, then counting him/ her against reservation quota will not violate the law laid down in Indra Sawhney.

60. The need for incorporating such a provision is to arrest arbitrariness and to protect the interests of the meritorious reserved category candidates. If such rule is declared redundant and unconstitutional vis-a`-vis Articles 14, 16 and 335 then the whole object of equality clause in the Constitution would be frustrated and the MRC candidates selected as per the general qualifying standard would be disadvantaged since the candidate of his/her category who is below him/her in the merit list, may by availing the benefits of reservation attain a better service when allocation of services is made. Rule 16 in essence and spirit protects the pledge outlined in the Preamble of the Constitution which conceives of equality of status and opportunity.

70. We must also remember that affirmative



action measures should be scrutinized as per the standard of proportionality. This means that the criteria for any form of differential treatment should bear a rational correlation with a legitimate governmental objective. In this case a distinction has been made between meritorious reserved category candidates and relatively lower ranked reserved category candidates. The amended Rule 16(2) only seeks to recognize the inter se merit between these two classes of candidates for the purpose of allocation to the various civil services with due regard for the preferences indicated by the candidates.

71. With regard to the specific characteristics of the UPSC examinations we hold that reserved category candidates (belonging to OBC, SC or ST categories among others) who are selected on merit and placed in the list of general/unreserved category candidates can choose to migrate to the respective reserved categories at the time of allocation of services. Such migration is enabled by Rule 16 (2) of the Civil Services Examination Rules, which is not inconsistent with Rule 16 (1) of the same or even the content of Articles 14, 16 (4) and 335 of the Constitution of India.

72. We sum up our answers-:

(i) MRC candidates who avail the benefit of Rule 16 (2) and adjusted in the reserved category should be counted as part of the reserved pool for the purpose of computing



the aggregate reservation quotas. The seats vacated by MRC candidates in the General Pool will be offered to General category candidates.

(ii) By operation of Rule 16 (2), the reserved status of an MRC candidate is protected so that his/ her better performance does not deny him of the chance to be allotted to a more preferred service.

(iii) The amended Rule 16 (2) only seeks to recognize the inter se merit between two classes of candidates i.e. (a) meritorious reserved category candidates (b) relatively lower ranked reserved category candidates, for the purpose of allocation to the various civil services with due regard for the preferences indicated by them.

(iv) The reserved category candidates "belonging to OBC, SC/ ST categories" who are selected on merit and placed in the list of general/unreserved category candidates can choose to migrate to the respective reserved category at the time of allocation of services. Such migration as envisaged by Rule 16 (2) is not inconsistent with Rule 16 (1) or Articles 14, 16(4) and 335 of the Constitution."

17. In the present case, the basic issue has been raised that meritorious reserved category candidate (M.R.C.



candidates) will have a right to opt better service, which has been allotted to another woman candidate, who has been selected under the Backward Caste Female. So, it is the dispute with regard to option for migration from Backward Caste category to Backward Caste Female category and they cannot be put on disadvantageous position by interjecting the M.R.C. candidate, who has secured a better place in the Backward Caste category candidate, for opting the better service as because she has been allotted and adjusted in the Backward Caste Reserve category. The law does not envisage and justify nor it is equitable to deprive a better candidate for better place, if she also opts to the said category. The reservation especially for Female is a class based reservation not a caste based reservation that falls under Article 16(1) of the Constitution of India not under Article 16 (4) of the Constitution of India and while making reservation under Article 16(1) i.e. class based reservation, the authority is only to ensure the number of woman in the select list as has been prescribed under the Reservation Act. The moment the desired numbers of female class are achieved in the select list, it ceases to operate, in such circumstance, additional number of Female Candidate is not to be included. In situation, where the number of selected Female



candidates is lesser than to required number, only to the extent of deficit Female candidates will be included pushing out the candidates below in the merit list.

18. This issue has been gone into in the case of ***Rajesh Kumar Daria (supra)***, in which the Hon'ble Supreme Court has place reliance on the decision of *Indra Sawhney vs. Union of India (1992 Supp (3) 217*, wherein the Court has distinguished the vertical reservation and the horizontal reservation. The reservation in favour of Scheduled Castes, Scheduled Tribes and other Backward Classes / Castes is under Article 16(4), is called, as 'vertical reservations' whereas the reservation in favour of physically handicapped, women etc. is under Article 16(1) or 15(1) would be called as 'horizontal reservations'. The method of implementing special reservation, which is a horizontal reservation cutting across vertical reservation has been analyzed and explained in paragraph no.7 of the said judgment, wherein the Hon'ble Supreme Court has placed reliance on the decision rendered in the case of *Anil Kumar Gupta vs. State of U.P. (1995) 5 SCC 173*, wherein it has been held that if the quota already satisfied, in case it is an overall horizontal reservation no further addition arises, but if it is not satisfied, the requisite number of special reservation candidates shall have to be taken



and adjusted against their respective social reservation categories by deleting the corresponding number of candidates thereof from below. If it is a case of compartmentalized horizontal reservation, then the process of verification and adjustment/ accommodation as stated above should be applied separately to each of the vertical reservations. In what manner the reservation would operate has been explained in paragraph nos. 6, 7 and 8 of the said judgment, which are as follows:-

6. *Before examining whether the reservation provision relating to women, had been correctly applied, it will be advantageous to refer to the nature of horizontal reservation and the manner of its application. In Indra Sawhney vs. Union of India [1992 Supp.(3) SCC 217], the principle of horizontal reservation was explained thus:-*

"all reservations are not of the same nature. There are two types of reservations, which may, for the sake of convenience, be referred to as 'vertical reservations' and 'horizontal reservations'. The reservations in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical



reservations - what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against the quota will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains - and should remain - the same."

7. *A special provision for women made under Article 15(3), in respect of employment, is a special reservation as contrasted from the social reservation under Article 16(4). The method of implementing special reservation, which is a horizontal reservation, cutting across vertical reservations, was explained by this Court in Anil Kumar Gupta vs. State of U.P. [1995 (5) SCC 173] thus :*

" The proper and correct course is to first fill up the OC quota (50%) on the basis of merit; then fill up each of the social reservation quotas, i.e., S.C., S.T. and B.C; the third step would be to find out how many candidates belonging to special reservations have been selected on the



above basis. If the quota fixed for horizontal reservations is already satisfied - in case it is an overall horizontal reservation - no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If, however, it is a case of compartmentalized horizontal reservation, then the process of verification and adjustment/accommodation as stated above should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen percent in favour of special categories, overall, may be satisfied or may not be satisfied.)
[Emphasis supplied]

9. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are 'vertical reservations'. Special reservations in favour of physically handicapped, women etc., under Articles 16(1) or 15(3) are 'horizontal reservations'. Where a vertical reservation is made in favour of a backward class under Article 16(4), the candidates belonging to such backward class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own



merit, their numbers will not be counted against the quota reserved for the respective backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. (Vide Indira Sawhney, R. K. Sabharwal vs. State of Punjab, Union of India vs. Virpal Singh Chauhan and Ritesh R. Sah vs. Dr. Y. L. Yamul). But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for scheduled castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of "Scheduled Castes women". If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected



on merit within the vertical reservation quota will be counted against the horizontal reservation for women. Let us illustrate by an example :

If 19 posts are reserved for SCs (of which the quota for women is four), 19 SC candidates shall have to be first listed in accordance with merit, from out of the successful eligible candidates. If such list of 19 candidates contains four SC women candidates, then there is no need to disturb the list by including any further SC women candidate. On the other hand, if the list of 19 SC candidates contains only two woman candidates, then the next two SC woman candidates in accordance with merit, will have to be included in the list and corresponding number of candidates from the bottom of such list shall have to be deleted, so as to ensure that the final 19 selected SC candidates contain four women SC candidates. (But if the list of 19 SC candidates contains more than four women candidates, selected on own merit, all of them will continue in the list and there is no question of deleting the excess women candidate on the ground that “SC-women” have been selected in excess of the prescribed internal quota of four.)

However, in the present case, this Court has not to exposit vertical reservations and the horizontal reservations as in the present case the candidates who have been selected in the category of Backward Caste are seeking migration in the



Backward Caste Female Category. If it is taken from the angle of horizontal reservation, then certainly the persons who have secured better place in the merit list will be entitled to occupy the seat in that category i.e. Backward Caste Female.

19. In the case of *Anurag Patel vs. U.P. Public Service Commission and Others (supra)* identical issue with regard to opting migration of the candidates who secured their places in the open category seat, but placed at the lower level than to the candidates who have been selected in the reserved category and were below in the rank to the M.R.C. candidates, then the question arose for migration of M.R.C. candidates in the Backward Class category, came for consideration. The factual background of the fact that in the year 1990, the Uttar Pradesh Service Commission conducted a combined State Services/Upper Subordinate Services (Preliminary) Examination for selection to various posts such as, Deputy Collectors in U.P. Civil (Executive) Services, Deputy Superintendent of Police in U.P. Police Services, Treasury Officers/Accounts Officers in U.P. Finance and Accounts Services, Sales Tax Officers, Assistant Transport Officers, District Supply Officers and various other posts. Pursuant to the advertisement, large number of candidates appeared in the examination. Altogether 358 posts



in various categories were filled up. The candidates belonging to the Backward Classes category were entitled to get reservations in selection in respect of 57 posts in various categories out of total number of 358 posts. The posts in each category of services are to be filled up by choice of the candidates and the persons who secured higher position in the merit list would opt for U.P. Civil (Executive) Services and those who could not get the higher and important category of services have to be satisfied with posts in services of lesser importance. In each category of service, posts were reserved for Scheduled Caste/Scheduled Tribe, Backward Classes and handicapped persons etc. If the candidates belonging to Scheduled Caste / Scheduled Tribe and Backward Classes get selected to the seats earmarked for general candidates, Uttar Pradesh Public Service Commission treated such candidates in the general category and allotted them to various services depending upon the rank secured by them in the select list of general candidate and Scheduled Caste/ Scheduled Tribe and Backward Category candidates, who got lower rank in the merit list of general candidates would get posting only in lessor important service. However, those who are in reserved category got their selection to the posts reserved for the backward class though they have



secured lesser rank in the merit list got appointed to the reserved posts in each category i.e. more important post than to the persons who secured better rank in the merit list. Contention was pressed that the Public Service Commission allotted lesser important posted to M.R.C. candidates and the candidates who are below to them were allotted more important posts and it was contended that the authority should have compared the candidates who are to be appointed on general merit as also candidates who are to be appointed against the reserved vacancies, while making appointments, the inter se merit of the reserved candidates should have been considered and they must have been given the option treating each service separately. As this exercise was not followed, less meritorious candidates got appointment to more important post, whereas more meritorious candidates had to be satisfied with the posts of less important. The Hon'ble Supreme Court has considered the decision rendered in the case of *Ritesh R. Shah v. Dr. Y.L. Yamul & Ors.*, [1996] 3 SCC 253, which was a case of admission to the medical college, and it has been held that the students who are entitled to be admitted on the basis of merit though belonging to reserved category cannot be considered to be admitted against seats reserved for reserved category, but it should not work out



to the disadvantage of such candidate and he may not be placed at a more disadvantageous position than the other less meritorious reserved category candidates. The aforesaid objective can be achieved if after finding out the candidates from amongst the reserved category who would otherwise come in the open merit list and then asking their option for admission into the different colleges, which have been kept reserved category candidates, should be considered and they be allotted seats in whichever colleges the seats should be available. In other words, while an M.R.C. category candidate entitled to admission on the basis of his merit will have the option of taking admission in the colleges where a specified number of seats have been kept reserved for reserved category but while computing the percentage of reservation he will be deemed to have been admitted as an open category candidate and not as a reserved category candidate.

20. It will be relevant to quote paragraph nos. 6, 7 and 8 of the aforesaid judgment, which read asunder:-

“6. Mr. R.N. Trivedi, learned senior counsel appearing for the Commission submitted that in case any rearrangement is made, the same persons who had already been appointed are likely to lose their posts. Going by the counter-



statement filed by the State in writ petition No. 22753 of 1993 it appears that altogether 358 candidates were appointed and 57 posts earmarked for Backward Classes were filled up by the candidates belonging to Backward Classes. Amongst the 358 candidates, those from Backward Classes who secured higher marks than the cutoff mark for the general category also must have got selection in the general category even though they belong to the backward classes. If these candidates who got selection in the general category are allowed to exercise preference and then are appointed accordingly the candidates who were appointed in the reserved categories would be pushed down in their posts and the vacancies thus left by the general category candidates belonging to backward classes could be filled up by the persons who are really appointed against the quota reserved for backward classes. There will not be any change in the total number of posts filled up either by the general category candidates or by the reserved category candidates.

7. Learned Senior Counsel for the Commissioner further pointed out that all these officers have been working against the posts since the last 11 years and that many of these affected parties were not made parties to the writ petition and if any reallocation of posts is made at this distance of time it will cause injustice to the affected parties. It is also pointed out by the



respondent's counsel that in the writ petition filed by one Amrendra Pratap Singh i.e. Writ Petition No. 32346 before the Allahabad High Court, an interim order was passed in favour of the petitioner therein and the Division Bench directed that the appointment would be subject to the result of the writ petition and this order continued for some period and all the candidates were informed that their appointments would be subject to the result of the writ petition. Although that writ petition under review was dismissed, the candidates who were appointed were aware of the proceedings pending before the High Court. By the impugned order the High Court only directed reallocation of the posts according to the merit prepared in the select list. The decision rendered in writ petition No. 46029 of 1993 dated 15-4-1998 was followed in the decision in Writ Petition No. 22753 of 1993.

8. *In the circumstances, we do not find any merit in these appeals. The appeals are dismissed accordingly. However, the State is directed to carry out the exercise of reallocation within a period of three months. The affected officers shall be given reasonable opportunity of being heard and to the extent possible the State shall give accommodation to such officers.”*

However, in the present case, the issue is not involved with respect to migration from the General Category to



Reserved Category, but it has been confined to migration from Backward Class to Backward Class Female. Ultimately, the Court has allowed the plea of M.R.C. candidates to give them place as per their desire and the seats vacated by M.R.C. candidates under the General Category would be filled up by waiting list candidates. In the aforesaid case, one of the questions arose, if any re-allocation of posts is made after 11 years of service and those who have already performed the duty with allotted post, in such circumstance, it will cause a disaster for them. The Court did not accept the plea of delay and directed to grant the relief to those who have secured better places in the merit list as better performer will not be treated as disadvantage and prejudice to his performance.

21. Same issue came for consideration before this Court in the case of *Sudhanshu Moses vs. The State of Bihar (supra)*. In that case also, a candidate belonging to one of the reserved classes has filed application for appointment against various posts through a Combined Competitive Examination, got selected on the basis of his own merit against one or more categories of post or posts so advertised, but, for the purpose of getting appointment against category of post of his own choice, claims and is granted the benefit of reservation; such candidate



can yet be treated to have been selected against open merit vacancy for the purpose of computation of resultant reserved/unreserved vacancies. The question came for consideration before this Court, on migration of M.R.C. candidates, the vacancy left in the open category list, will it be treated to be meant for the Reserved Category seat of the class of persons who have migrated to their respective class or will be filled up from unreserved category. Placing reliance on the decision of *Union of India vs. Ramesh Ram (supra)* and other judgments, this Court has held that vacancy created under the General Category list by migration, will be filled up by Unreserved Category candidates and those who have migrated will be treated to have been adjusted against the reserved category. In that case, the question of M.R.C. candidates also came for consideration and this Court has held that the person in the meritorious reserved category has secured a place in the merit list, will not act as a disadvantage to those who have secured better place in the merit list.

22. It will be relevant to quote paragraph no.25 of the said judgment, which reads as under:-

“25. In view of the Supreme Court decision in the case of Ramesh Ram (supra) and Division



Bench decisions of this Court in cases of Sarvesh Chandra (supra) and G.V. Nutan (supra), we are of the considered view that if a meritorious reserved category (MRC) candidate, claims and is granted benefit of reservation for the purpose of his/her selection and appointment against post/vacancy of his/her own choice, such candidate would be treated to have been selected on the basis of granting him the benefit of reservation, despite the fact that on the basis of open merit position, he/she could have been selected and appointed against unreserved post, not of his/her choice. The resultant vacancy occurring because of shifting of such candidate from open merit to merit list, prepared for the reserved category candidates to which he/she belongs, will be required to be filled-up on the basis of open merit list. If the resultant vacancy, caused by shifting of such candidate/s from open merit category to reserved category because of his/her choice is slot to be filled-up by another reserved category candidate/s, it would amount to granting more percentage of reservation than permissible under Section 4 of Bihar Act 3, 1992 and would also be in breach of Constitution Bench decision of Supreme Court in case of Indra Sawhney (supra).”

- 23.** On the issue of option to M.R.C. candidate in the matter of opting a better place in the medical college vis-a-vis creation of vacancy in the General category will be filled up by



General Category candidates or by the respective reserved category candidate, who were migrated in the respective area on the basis of their option, the Court has held that as it is matter of getting an admission in a better institute, is quite different to the appointment in more important posts in the service and after placing reliance on all the previous judgments finally crystallized in paragraph no.15 of the said judgment, which reads as under:-

“15. The law on this aspect has been explicitly laid down by Constitution Bench decision in case of Ramesh Ram (supra), wherein the Court held in Paragraph 72 as follows:-

"72. We sum up our answers:-

(i) MRC candidates who avail the benefit of Rule 16 (2) and adjusted in the reserved category should be counted as part of the reserved pool for the purpose of computing the aggregate reservation quotas. The seats vacated by MRC candidates in the General Pool will be offered to General category candidates.

(ii) By operation of Rule 16 (2), the reserved status of an MRC candidate is protected so that his/ her better performance does not deny him of the chance to be allotted to a more preferred service.

(iii) The amended Rule 16 (2) only seeks to



recognize the inter se merit between two classes of candidates i.e. (a) meritorious reserved category candidates (b) relatively lower ranked reserved category candidates, for the purpose of allocation to the various civil services with due regard for the preferences indicated by them.

(iv) The reserved category candidates "belonging to OBC, SC/ ST categories" who are selected on merit and placed in the list of general/unreserved category candidates can choose to migrate to the respective reserved category at the time of allocation of services. Such migration as envisaged by Rule 16 (2) is not inconsistent with Rule 16 (1) or Articles 14, 16(4) and 335 of the Constitution."

MRC in the decision of the Supreme Court refers to "Meritorious Reserved Candidates", i.e., such candidates belonging to one of the reserved categories, who qualifying in a selection process on the basis of their merit."

24. As it is not a case of getting admission in the medical college nor the issue has been raised that in what manner the post left by the M.R.C. candidate should be filled up, as admittedly on migration from Backward Class to Woman Backward Class, certainly the vacancy created would be filled up by M.R.C. candidate in the respective categories.



25. The issue of migration again came for consideration in the case of *Tripurari Sharan and Another vs. Ranjit Kumar Yadav and Others (supra)* there General Category candidates were claiming that the vacancy created on migration should be filled up by the General Category candidates placing reliance on Ramesh Ram's case (supra) and claimed that filling up of the vacancy from the reserved category candidates cannot exceed more than 50% , which is the upper cap limit as has been decided in the case of Indra Sawhney (supra), but the Hon'ble Supreme Court has held that more meritorious reserved category candidates should get a better college of his choice and the vacancy created will be filled up by the class of persons who were left the seats on account of migration and has distinguished the application of migration in the matter of entry in the service of choice posting vis-a-vis opting a better institution for admission and finally held that the principle that has been enunciated in the Ramesh Ram's case (supra) will not be applicable as it is a matter of only admission in the College i.e. it is not a case of appointment of more important post and on migration the left out seats will be filled up by reserved category candidate of respective classes and it will not change the equation of outer limit of 50%.



26. It will be relevant to quote paragraph no.16 and 17 of the said judgment, which is as follows:-

“16. In Ramesh Ram, this Court has seemingly and intrinsically arrived at a diametrically opposite decision from Ritesh R. Sah. Indeed, the aggregate reservation should not exceed 50% of the available vacancies. While we are undoubtedly bound by Ramesh Ram (supra), the very judgment justified why it is so different from Ritesh R. Sah. It categorically held that there is a distinction between selection and admission of PG candidates as in Ritesh R. Sah, and selection and appointment of UPSC candidates as in Ramesh Ram. While in postgraduate admissions, the results will grant all the candidates the same benefit irrespective of rank (i.e., admission in medical colleges), the results in UPSC selections give varying benefits to varying rank-holders, as the allocation of services is based on rank. This Court thus held that in case of UPSC selections, the general category seat vacated by a MRC to occupy a reserved category seat, must be filled up by candidates from the general category. It also held that such MRC should be counted in the reserved category (and not in the general category, as Ritesh R.Sah did) in order to prevent the reservation cap from exceeding 50%. It would be beneficial to look into paras 31, 32, 66 and 67 of Ramesh Ram (supra) for the purpose of distinguishing the said matter



from the matter on hand and they read as follows:- (Ramesh Ram Case, S.C.C. pp.247-48 § 260)

“31. The respondents have also placed strong reliance on this Court's decision in Ritesh R. Sah v. Dr. Y.L.Yamul (1996) 3 SCC 253). The question in that case was whether a reserved category candidate who is entitled to be selected for admission in open competition on the basis of his/her own merit should be counted against the quota meant for the reserved category or should he be treated as a general candidate. The Court reached the conclusion that when a candidate is admitted to an educational institution on his own merit, then such admission is not to be counted against the quota reserved for Scheduled Castes or any other reserved category. However, it is pertinent to note that this decision was given in the context of admissions to medical colleges ...”

32. There is an obvious distinction between qualifying through an entrance test for securing admission in a medical college and qualifying in the UPSC examinations since the latter examination is conducted for filling up vacancies in the various civil services. In the former case, all the successful candidates receive the same benefit of securing admission in an educational institution. However, in the latter case there are variations in the benefits that accrue to



successful candidates because they are also competing amongst themselves to secure the service of their choice. For example, most candidates opt for at least one of the first three services [i.e. Indian Administrative Service (IAS), Indian Foreign Service (IFS) and Indian Police Service (IPS)] when they are asked for preferences. A majority of the candidates prefer IAS as the first option. In this respect, a reserved category candidate who has qualified as part of the general list should not be disadvantaged by being assigned to a lower service against the vacancies in the general category especially because if he had availed the benefit of his reserved category status, he would have got a service of a higher preference. With the obvious intention of preventing such an anomaly, Rule 16 (2) provides that an MRC candidate is at liberty to choose between the general quota or the respective Reserved Category quota.

66. The decision in Anurag Patel in turn referred to the earlier decision in Ritesh R. Sah v. Dr. Y.L. Yamul. However, we have already distinguished the judgment in Ritesh R. Sah. That decision was given in relation to reservation for admission to post graduate medical courses and the same cannot be readily applied in the present circumstances where we are dealing with the examinations conducted by UPSC. The ultimate aim of civil



services aspirants is to qualify for the most coveted services and each of the services have quotas for reserved classes, the benefits of which are availed by MRC candidates for preferred service. As highlighted earlier, the benefit accrued by different candidates who secure admission in a particular educational institution is of a homogeneous nature. However, the benefits accruing from successfully qualifying in UPSC examination are of a varying nature since some services are coveted more than others.

67. The order of CAT is valid to the extent that it relied on the ratio propounded by this Court in Anurag Patel v. U.P. Public Service Commission. Even though that decision had in turn relied on the verdict of this Court in Ritesh R. Sah v. Dr. T.L. Yamul, the latter case is distinguishable from the present case with respect to the facts in issue. However, we cannot approve of the conclusions arrived at in the Central Administrative Tribunal order as it failed to take note of the unique characteristics of UPSC examinations.” (Emphasis supplied)

Hence it is amply clear that the Constitution Bench makes a distinction between two types of selections, i.e., selection to medical colleges through a common entrance test, and selection to posts in services through the UPSC examination.



17. It is also pertinent to note that the Constitution Bench has virtually but impliedly approved Ritesh R. Sah (supra) insofar as the procedure to be adopted in cases of admissions to medical colleges through a common competitive examination is concerned. In view of the above, the principles laid down in Ramesh Ram (supra) may not be applicable to the facts of this case, inasmuch as this is a case pertaining to admission in medical colleges and whereas Ramesh Ram (supra) pertains to selections to the posts for services through the UPSC examination.”

27. In view of aforesaid discussions, it is very much clear that those Female candidates who have secured better place in the merit list and occupy their places in the reserved category will have a preferential right to opt the post of more important, which has been reserved for Backward Class Female, as stated hereinabove, the petitioners have secured better place in the merit list than to the candidates who have been selected under Backward Class Female category and have been appointed as Additional Collector whereas these petitioners have been adjusted in less prestigious post as like Labour Superintendent and Assistant Election Officer, so certainly they should be given the option and they are required to be placed under Reserved Class Female Category and the place left by



them will certainly be filled up by the Backward Class candidates on the basis of merit in the seniority list but, this part has not been seriously confronted by learned counsel for the respondents but, raised the grievance that the petitioners vis-a-vis respondents have worked against the respective posts in different departments for long years, cannot be allowed the change of new place of posting, resultant effect, the respondents may lose their appointment, so it will not be equitable and desirable after lapse of long period, this Court would give direction for migration but, whether it will be a ground to deprive a person of his rightful place in the matter of appointment to the prestigious post. The duty of the Court can be quoted in the following term:-

“Be patient, learn the fact and research the applicable law until you are in a position to understand it. Then, once you are sure that you are right, and the result is consistent with your instinct, go ahead and issue your ruling, regardless to what political consequences may be. It is not a Judge’s job to be politically correct or even to be popular, it is the Judge’s job to do justice under the Rule of Law.”

28. In the case of **Anurag Patel (supra)** the plea was



taken that after 11 years, the Court should not give direction for reallocation of posts of officers, who were working for last 11 years and that many of them were not made parties and if any reallocation of posts is made at this distance of time, it will cause injustice to the affected parties. However, the Hon'ble Supreme Court has rejected the plea and directed to carry out the exercise of reallocation within a period of three months. In the present case also, the situation by and large same, as in the present case the petitioners without waiting long have approached this Court and made prayer for their reallocation and migration to the post of Deputy Collector, claiming as those who are less meritorious and secured their place below in the merit list than to these petitioners, have been allotted more important post i.e. Deputy Collector whereas these petitioner have been appointed as Labour Superintendent or the Assistant Election Officer *de hors* to Memo No.04 of 2009-363 of the Finance Department, Government of Bihar.

29. Let us examine the matter with regard to claim of the respondents that after such a long delay, if the petitioners are allowed to migrate in Woman Backward Category, it will bring “tsunami” i.e. administrative chaos and everyone will be disturbed. In support of the submission, the respondents has



placed reliance on the decision rendered in the case of ***Union of India vs. Chaman Rana (supra)***, but that case was with regard to giving retrospective promotion and claim was that it will unsettle the settled thing after long a long delay and the Hon'ble Supreme Court has held that retrospective promotion cannot be given as it will bring a "tsunami" resulting in administrative chaos quite apart from the financial implications for the Government, but the Court has given its decision as the petitioner has approached after long period, but this is not the situation in the present case.

30. In the case of ***S. Ramanathan vs. Union of India and Others*** reported in ***(2001) 2 SCC 118***, the Hon'ble Supreme Court has held that it is no doubt true that while exercising the discretionary jurisdiction, Courts examine the question of administrative chaos or unsettling the settled position, but in absence of any materials on record, the Court should not be justified in accepting the apprehension of any administrative chaos or unsettling the settled position on the mere oral submission of the learned Additional Solicitor General, without any materials in support of the same. The Court further held that on examining the records of the case, we do not find an iota of material indicating the so-called administrative chaos, likely to



occur in the event any direction is issued for re-consideration of the case of promotion on the basis of the alteration of the cadre strength and, therefore, we have no hesitation in rejecting the said submission of the learned Additional Solicitor General.

31. In the present case, the plea of administrative chaos has not been taken by the State and this Court is of the view that mere giving a better place/posts to these petitioners, there will not be administrative chaos, if the petitioners are appointed as Deputy Collector in the Bihar Administrative Service taking into consideration that they are performing the duty of the respective posts without any adversity and that so-called plea of administrative chaos cannot survive against the rightful claim of these petitioners.

32. In the case of *Miss Neelima Shangala vs. State of Haryana and Others* reported in *(1986) 4 SCC 268* the Hon'ble Supreme Court has held that a few more candidates would have been made entitled to be included in the select list, but having regard to the fact that most of the persons have not chosen to question the selection and the circumstance that two years have elapsed, the Hon'ble Supreme Court has held that we do not propose to make any such general order as that would completely upset the subsequent selection and create confusion



and multiplicity of problems.

But in the present case, situation is not the same, it is only confined to these petitioners not to those who have not approached this Court, so the observation of the Hon'ble Supreme Court regarding administrative chaos is not applicable in the present case, inasmuch as, the petitioners raised objection instantly followed by present writ petitions without unnecessary delay.

33. Administrative chaos has been considered by Lord Denning in *Bradbury and Others vs. London Borough of Enfield* reported in (1967) 3 All E.R. 434 in the following manner:-

"I must say this: If a local authority does not fulfill the requirements of the law, this Court will see that it does fulfill them. It will not listen readily to suggestion of chaos. Even if chaos should result, still law must be obeyed."

In my view, the plea of administrative chaos will not come in the way to grant the rightful claim to these petitioners.

34. In this view of the matter, this Court issues writ of *mandamus*, directing the respondents that the petitioners who



have secured better position in the merit list of Backward Class category than to the candidates selected under Backward Class Female category, be allowed to be migrated to the corresponding posts earmarked for Backward Class Female candidates in place of those seats which have been allotted to those persons and appointed against the vacancy reserved for Backward Female category candidates, after giving the benefit of migration from Backward Class to Woman Backward Class, in the result the vacancy left, the same would be filled up by those who are in the merit list of Backward Class category. This order should be carried out within a period of three months from the date of receipt/production of a copy of this order.

35. With the aforesaid observations and directions, these writ petitions are allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
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