

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.851 of 2018

In

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.

... .. Appellant/s

Versus

1. The State Of Bihar through Principal Secretary, Human Resources Development (Higher Education), Govt. 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 Appellant/s	:	Mr. Balram Kapri, Adv.
For the Respondent/s	:	Mr.Saroj Kumar Sharma, AC to AAG 3
For B.P.S.C.	:	Mr. Sanjay Pandey, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-07-2019

I.A. No.5847 of 2018

Having heard learned Counsel for the parties, we
are satisfied that the delay has been sufficiently explained. The



delay condonation application is allowed. The appeal shall be treated to be within time.

L.P.A. No.851 of 2018

Heard learned counsel for the appellant.

The appeal takes exception to the correctness of the view formed by the learned Single Judge in relation to the status of reservation as claimed by the appellant.

An interview letter was issued to the appellant in respect of appointment to the post of Assistant Professor and the contention of the learned counsel is that the appellant belongs to the extremely backward category and, therefore, he should be extended the said benefit by placing him in the said category.

On facts there is no dispute. The last date for filling up of the application forms was extended up to 5th of January, 2015. The petitioner belonged to the backward category of candidates and he, accordingly, filled up his form for which it was necessary to enclose the certificate of the category for which reservation was being claimed.

It is undisputed that the caste of the petitioner came to be placed in a notification issued by the State Government on 22nd April, 2015 amongst the extremely



backward category. The appellant is seeking benefit of this contending that even the Commission has allowed corrections to be carried out with regard to the status of the reservation and category and the appellant having entered the aforesaid category is entitled to the benefit of reservation accordingly as a candidate under the extremely backward category.

The learned Single Judge did not find favour with this argument and dismissed the writ petition holding that the caste of the appellant came to be placed in the extremely backward category much after the last date of the filling up of the application form.

We have perused the documents and we find that the resolution of the Government dated 22nd April, 2015 categorically recites that the said resolution will take effect immediately (यह आदेश तुरंत प्रभावी होगा). This recital, therefore, clearly makes the said declaration prospective and it cannot be applied retrospectively. Admittedly, the appellant on the last date for filling up of the application form belonged to the backward category and not to the extremely backward category.

In view of the aforesaid background and the reasons aforesaid, we find no legal infirmity in the impugned judgement so as to entertain this appeal.



Learned counsel has raised other submissions also which do not concern his candidature and, therefore need not be considered.

The appeal is rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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