

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13719 of 2019

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Bishokha Kumari Jaiswal, daughter of Late Mohan Prasad Jaiswal, resident of Village and Post- Ajhokopa, Tirasi Tola, P.S.- Rupauli, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Director in Chief Health Services, Government of Bihar, Patna.
3. The Chairman, Bihar Staff Selection Commission, Patna.
4. The Secretary, Bihar Staff Selection Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Chandra Jha 3, Advocate
For the State	:	Mr. Birju Prasad (GP-13)
For the BSSC	:	Mr. Madhav Prasad Yadav, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 11-07-2019

The petitioner has challenged the order dated 16.05.2019 passed by the Secretary, Bihar Staff Selection Commission, Patna contained in Memo No. 1107/A whereby the representation of the petitioner pursuant to a direction of this Court has not been considered in correct perspective and factually incorrect statement has been made in the order.

2. It appears from the records of the case that the petitioner, who was working on contractual basis as



ANM since 2007 applied for being appointed on such post on a regular basis in the year 2016 when vacancy had arisen in the State of Bihar. At the time of filling up of the form, the petitioner had furnished the caste certificate of her belonging to *Kalwar* caste which falls in Backward Caste category. However, by mistake, the petitioner mentioned her category as Most Backward Caste. No sooner was this defect/fault discerned by the petitioner, an application was made before the Commission for its correction. The aforesaid request of the petitioner was allowed and online correction was made by the petitioner clarifying that she hails from the Backward Caste category. Thereafter, because of the non-inclusion of the petitioner in the select/merit list, the petitioner tried to know the reason for the same and was made to understand that because of the mismatch in the category projection of the petitioner, she was treated in the general category and therefore was not appointed.

3. The petitioner has submitted that she has



obtained more marks than the cut-off for Backward Caste category candidates as also of the Most Backward Caste category.

4. The petitioner had approached this Court earlier vide C.W.J.C. No. 1982 of 2019 which was disposed of by this Bench on 07.02.2019 directing the petitioner to make a fresh representation before the Secretary, Bihar Staff Selection Commission, Patna within a period of one week from the date of the order, who was put under an obligation to take a decision within a further period of three weeks of the receipt of such representation.

5. The order under challenge has been passed on the representation of the petitioner.

6. From the perusal of the order impugned, it appears that the concerned respondent/Secretary, Bihar Staff Selection Commission has disputed the fact that *Kalwar* caste belongs to Backward Caste category; rather it is under the Most Backward Caste category. If this fact



also is accepted to be true, the petitioner was required to be treated in the reserved category and not as unreserved category candidate.

7. Apart from this, learned advocate for the petitioner has submitted that the *Kalwar* caste falls in Backward Caste category which would be evident from the list published by the Bihar Government in its Department of Personnel and Administrative Reforms.

8. It has also been urged on behalf of the petitioner that the concerned respondent misdirected himself in not considering the fact that on the asking of the petitioner, the petitioner was made to rectify the form and therefore the ground of mismatch in the category of the petitioner could not have been taken for rejecting her candidature.

9. The order suffers from lack of application of mind and cannot be sustained on any account.

10. The order dated 16.05.2019 passed by the Secretary, Bihar Staff Selection Commission, Patna



contained in Memo No. 1107/A is therefore set aside.

11. The matter is remitted to the Secretary, Bihar Staff Selection Commission, Patna for him to pass a fresh order in accordance with law taking into account the facts stated in the order. The order shall be passed within four weeks of the production/receipt of a copy of this order.

12. With the aforesaid observation/direction, the writ petition stands disposed of.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16/07/2019

