

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1663 of 2015**

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1. Dr. Ashok Kumar Kariwal, son of Banwarilal Kariwal, resident of Road No. 6C, Rajendranagar, P.S.- Kadam Kuan, District -Patna.
2. Dr. Abhishek Tiwari, son of Rama Shankar Tiwari, resident of 103, Kamala Enclave, Sardar Patel Colony, P.S.- Kurji, Patna.
3. Dr. Pashupati Kumar Jain, son of Sri Shivbhagwan Jain, resident of Opposite MIG 348 East Ashok Nagar, P.S.- Kankarbagh, District – Patna.
4. Dr. Sudhir Kumar, son of Dr. Awadhesh Prasad Singh, resident of K 199, Hanumannagar, P.S.- Kankarbagh, District -Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Secretary, Department of Health, Government of Bihar, Patna.
4. The Director- in- Chief, Health Services, Department of Health, Government of Bihar, Patna.
5. The Additional Secretary, Department of Health, Government of Bihar, Patna.
6. The Joint Secretary, Department of Health, Government of Bihar, Patna.
7. Dr. Motal Ahmad Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya, son of not known, Resident of not known.
8. Dr. Sanjay Kumar Rao, Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya, son of not known, resident of not known.
9. Dr. Sanjay Kumar Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya, son of not known, resident of not known.
10. Dr. Rajmani Prasad Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya, son of not known, resident of not known.
11. Dr. Shishir Kumar Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya, son of not known, resident of not known
12. Dr. Ajit Kumar Sinha Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya, son of not known, resident of not known.
13. Dr. Mukesh Kumar Assistant Professor (Contractual Appointee) Surgery, Anugrah Narayan Memorial Medical College, Gaya, son of not known, resident of not known.  
All through the Dean, Anugrah Narayan Memorial Medial College, Gaya.
14. Dr. Vasudeo Prasad Jayasawal Assistant Professor (Contractual Appointee) Surgery Darbhanga Medical College, Laheriasarai Darbhanga, son of not known, resident of not known.
15. Dr. Suryadeo Prasad Singh Assistant Professor (Contractual Appointee) Surgery Darbhanga Medical College, Laheriasarai Darbhanga, son of not known, resident of not known.



16. Dr. Md. Kamaruddin Ansari Assistant Professor (Contractual Appointee) Surgery Darbhanga Medical College, Laheriasarai Darbhanga, son of not known, resident of not known.
17. Dr. Shivanand Assistant Professor (Contractual Appointee) Surgery Darbhanga Medical College, Laheriasarai Darbhanga, son of not known, resident of not known  
All through the Principal Darbhanga, Medical College, Laheriasarai, Darbhanga.
18. Dr. Manoj Kumar Jayaswal Assistant Professor (Contractual Appointee) Surgery Sri Krishna Medical College, Muzaffarpur, son of not known, resident of not known.
19. Dr. Ganesh Kumar Assistant Professor (Contractual Appointee) Surgery Shri Krishna Medical College, Muzaffarpur, son of not known, resident of not known.
20. Dr. Pramod Kumar Sah Assistant Professor (Contractual Appointee) Surgery Sri Krishna Medical College, son of not known, resident of not known.
21. Dr. Nischal Anand Assistant Professor (Contractual Appointee) Surgery Sri Krishna Medical College, Muzaffarpur, son of not known, resident of not known.  
All through the Principal Shri Krishna Medical College, Muzaffarpur.
22. Dr. Rajendra Kumar Assistant Professor (Contractual Appointee) Surgery Jawaharlal Nehru Medical College, Bhagalpur, son of not known, resident of not known.
23. Dr. Pradeep Kuamr Bajaj Assistant Professor (Contractual Appointee) Surgery Jawaharlal Nehru Medical College, Bhagalpur, son of not known, resident of not known.
24. Dr. Awadh Kumar Assistant Professor (Contractual Appointee) Surgery Jawaharlal Nehru Medical College, Bhagalpur, son of not known, resident of not known.  
All through the Principal Jawaharlal Nehru Medical College, Bhagalpur.
25. Dr. Vijay Kumar Gupta Assistant Professor (Contractual Appointee) Surgery Government Medical College, Chhapra, son of not known, resident of not known.
26. Dr. Alakh Narayan Assistant Professor (Contractual Appointee) Surgery Government Medical College, Chhapra, son of not known, resident of not known.  
Both through the Principal Government Medical College, Chhapra.
27. Dr. Pankaj Kumar Assistant Professor (Contractual Appointee) Surgery Government Medical College, Samastipur, son of not known, resident of not known.
28. Dr. Lalan Kumar Assistant Professor (Contractual Appointee) Surgery Government Medical College, Samastipur, son of not known, resident of not known.  
Both through the Principal Government Medical College, Samastipur.
29. Dr. Dinanath Prasad Assistant Professor (Contractual Appointee) Surgery Government Medical College, Purnea, son of not known, resident of not known.
30. Dr. Jayant Kuamar Deepak Assistant Professor (Contractual Appointee) Surgery Government Medical College, Purnea, son of not known, resident of not known.  
Both through the Principal Government Medical College, Purnea.



31. Dr. Shivshankar Paswan Assistant Professor (Contractual Appointee) Surgery Government Medical College, Madhepura, son of not known, resident of not known.
32. Dr. Praveen Kuamar Assistant Professor (Contractual Appointee) Surgery Government Medical College, Madhepura, son of not known, resident of not known.
- Both through the Principal Government Medical College, Madhepura.

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Patanjali Rishi, Adv.  
For the Respondent-State: Mr. Ajay Kumar Rastogi, AAG-10.  
Mr. Rohitabh Das, AC to AAG-10.  
Mr. Parijat Saurav, AC to AAG-10.

**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**and**  
**HONOURABLE JUSTICE SMT. NILU AGRAWAL**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**  
**Date : 22-01-2019**

Heard Mr. Patanjali Rishi, learned counsel  
appearing for the appellant and learned counsel for the State.

This intra-court appeal arises from a judgment and order passed by a learned Single Judge dated 07.07.2015 in CWJC No.4739 of 2015 whereby the challenge made by the appellant-writ petitioners to the selection of the private respondents, inter alia, in reference to the provisions of the Bihar Reservation of Vacancies in Posts and Services (for Schedule Castes, Schedule Tribes and Other Backward Classes) Act, 1991 (hereinafter referred to as 'the Act') with particular reference to the judgment of the Supreme Court rendered in the case of **Indra Sawhney vs Union of India** reported in 1992 **Supp. (3) SCC 217** has not found favour with the learned



Single Judge who has dismissed the writ petition.

Even before this Court the spirited argument of Mr. Patanjali Rishi, relying on the provisions of ‘the Act’ and the judgment does not persuade this Court to interfere with the opinion of the learned Single Judge for two reasons, namely:

- (i). The nature of engagement is contractual; and
- (ii). The counter affidavit filed by the State in the writ petition as well as before this Court sufficiently explains the manner in which the reservation has been applied.

In case the application is not to the satisfaction of the appellant-writ petitioners who have a different opinion as regarding applicability, this by itself cannot render the exercise illegal to interfere therewith.

The appeal is dismissed.

**(Jyoti Saran, J)**

**( Nilu Agrawal, J)**

Skpathak/Anjula

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
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