

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15926 of 2018

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Sonal Kumar, son of Sri Sindhu Kumar, resident of Village + P.O.- Sahatha,
P.S.- Bhagwanpur, District- Vaishali, Bihar, Pin Code- 844123.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Principal Secretary, Science and Technology Department, Government of Bihar, Patna.
3. The Director, Science and Technology, Bihar, Patna.
4. The Bihar Public Service Commission, Bihar, through its Chairman.
5. The Joint Secretary-cum- Examination Controller, Bihar Public Service Commission, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anshuman, Advocate
For the Respondent/s	:	Mr. Ashok Kumar Gupta, AC to GP-10
For the BPSC	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 26-09-2019 Heard learned counsel for the petitioner, State and
B.P.S.C.

Mr. Anshuman Singh, learned counsel for the petitioner submits that the respondents have arbitrarily awarded 5 marks out of 20 in the interview, despite the brilliant academic career of the petitioner, whereas the favourite candidates were extended undue advantage by awarding of marks in the interview, inasmuch as, 18 out of 20. He next contended that in the process of selection, the respondents have treated the reserved category candidate in the general category considering their merit position ignoring the principle laid down by the Apex



Court in the case of **Pradeep Singh Dehal Vs. State of Himachal Pradesh & Ors.** {SLP (Civil) No. 32081-32082 of 2015} where the Apex Court has occasion to consider the judgment of **Vikas Sankhala Vs. Vikas Kumar Agarwal**, reported in **(2017) 1 SCC 350**.

Mr. Anshuman Singh, relying upon the judgment of the Apex Court mentioned herein above, has submitted that adjusting the reserved category candidate against the unreserved category is unconstitutional and as such impermissible.

The principle discussed in the case referred to by the learned counsel for the petitioner is inapplicable in a situation where a candidate belonging to reserved category has not availed any benefit of reserved category. There is no pleading in the writ application that a person, who have been considered against the unreserved category was favoured any benefit of reserved category.

Thus, the submission of the petitioner does not appeal to the Court, as it is well settled principle of law that if reserved category candidate qualify on the basis of merit against the unreserved category, he has to recommend and appoint on the post of unreserved category. Therefore, the Court does not find any infirmity, so far as consideration of the reserved category



candidates against the unreserved category on account of merit position.

The objection as to evaluation in the matter of interview, the personal evaluation and assessment of the candidate as to his performance in the interview is no ground to interfere in the selection made by the expert body like the Bihar Public Service Commission in the absence of any pleading of mala fide on facts or mala fide in the matter of extending undue favour, the Court is not in a position to find any fault in the selection and interfere with the recommendation of the B.P.S.C. The writ application is devoid of any merit.

Accordingly, the writ application is dismissed.

(Anil Kumar Upadhyay, J)

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