

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13816 of 2007**

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ASHOK KUMAR, S/o Sri Jagdhari Prasad, resident of Naya Tola, Nutan Niwas, Speaker Chowk, P.S. Kazi Muhammadpur, District, Muzaffarpur at present posted as Mechanical Section, Road Construction Department, Bettiah, under Mechanical Division, Road Constitution Department, Muzaffarpur

... .. Petitioner/s

Versus

- 1) THE STATE OF BIHAR through Chief Secretary having his office in Old Secretariat, P.S. Sachivalaya, Patna
- 2) The Principal Secretary, Water Resources Department having its office in Vikas Bhawan, New Secretariat, Patna
- 3) The Principal Secretary, Road Construction Department Vishwesharalya Bhawan, patna
- 4) The Deputy Secretary, Road Construction Department, Bihar, Patna
- 5) The Engineer in Chief, Road Construction Department, Vishwesharaiya Bhawan, Patna
- 6) The Bihar Public Service Commission through Chairman, Baily Road, patna
- 7) The Secretary, Personnel and Administrative Reforms Department, Old Secretariat, Patna, Bihar

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Rupak Kumar  
For the Respondent/s : Mr. Manindra Kumar

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE S. KUMAR)**

**Date : 14-08-2020**

Heard learned counsel for the petitioner and learned counsel for the respondents.

Petitioner has prayed for the following reliefs:-

“1. This writ application is being filed for issuance of writ in nature of certiorari for quashing the order memo no. 1340 dated 10.02.2006 issued by Deputy Secretary, Road Construction Department, whereby and whereunder the petitioner has been



gainsaid the benefit of reservation in promotion on the post of Assistant Engineer (Mechanical) in the light of letter memo no.70 dated 11.06.95(though it should be 11.06.1996) of personnel and administrative reforms department and Bihar (Amendment) Act, 15, 2003 and on account of having permanent residence in Ballia district of Uttar Pradesh.”

2. This writ application is further filed for issuance of writ in the nature of mandamus commanding the respondents to consider the case of the petitioner for promotion to the post of Assistant Engineer (Mechanical) with effect from 05.11.2005, the date his juniors have been so promoted on giving the benefit of reservation by correcting his caste category from general to scheduled caste consequent upon quashing the order memo dated 10.02.2006 as the letter no.70 dated 11.06.96 is inapplicable in the case of the petitioner.

order:-  
This Court on 30.4.2009 passed the following

“Learned counsel for the petitioner submits that similar matters are pending before the Hon’ble Supreme Court in SLP (Civil) No. 7854/2009 and therein status quo was ordered.

Hence, we also direct the State to file counter affidavit in the matter.

Meanwhile, status quo, as on today, shall continue until further orders are passed.

After disposal of the aforesaid SLP (Civil) No. 7854/2009, learned counsel shall have liberty to make prayer for posting of this matter.

I.A No. 1312 of 2009 was filed by the petitioner challenging the validity of Bihar Amendment Act, 15 of 2003,



and by order dated 13.03.2015 same was allowed which reads as follows:-

“This interlocutory application is filed with a prayer to permit the petitioner to amend the prayer in the writ petition to take its fold to challenge the Amendment Act 15 of 2003 through which Bihar Reservation of Vacancies in Posts and Services (For Scheduled Castes/scheduled Tribes and Other Backward Classes) Act, 1991, has been amended as well as the letter dated 11.06.1996 issued by the Commissioner of the Personnel & Administrative Reforms Department.

We allow the interlocutory application and grant time to the respondents to file counter affidavit.”

Issue raised in this writ petition with respect to validity of Amendment Act 15 of 2003 came up for consideration before Division Bench of this Court in Khichri Ram Vs. State of Bihar and Others (C.W.J.C. No.15153 of 2008) decided on 4.3.2009 which upheld the validity of Amendment Act 15 of 2003 against which SLP being SLP (C) No.7934 of 2009 was preferred which was disposed of on 25.8.2014 affirming the judgment of this Court with following observations:-

“Leave granted.

After arguing for some time, the consensus emerged among Mr. Guru Krishna Kumar, learned senior counsel for the appellants and Mr. Ranjit Kumar, learned Solicitor General for the following order:

The impugned order does not call for any interference by us.

However, no recovery shall be made from the appellants in respect of the



service rendered by them on promotional post under the reserved quota.

The appellants though are not entitled to promotion under the reserved category from 11.6.1996, but their right of consideration of promotion in the ‘general category’ shall not be affected. As and when the appellants become entitled to promotion under the ‘general category’ they will be promoted accordingly in that category.

The appellants shall be treated as recruitees from ‘general category’ for all intents and purposes. However, their promotion in reserved category before 11.6.1996 in the peculiar circumstances shall remain protected up to 11.6.1996.”

In view of judgment of Division Bench of this Court which was affirmed by the Apex Court, the writ petition is dismissed. However, if any grievance of the petitioner still survives, liberty reserve to him to take recourse to such remedies as are otherwise available in accordance with law.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

Sanjay/- Ranjan

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