

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.155 of 2017

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1. Shatrughan Kumar, Son of Shri Kishori Lal, Resident of Mohalla- Bag Malu Khan, P.O.- Patna City, P.S.- City Chowk, District- Patna.
 2. Chitra Kundan, Son of Umakant Paswan, Resident of Tarni Prasad Lane, Paschim Darwaza, Patna City, P.O.- Jhauganj, P.S.- Khaje Kalan, District- Patna.
 3. Pragati Kumar, Son of Uma Shankar Ram, Resident of Village- Haspur, P.O.- Basudhar, P.S.- Itarhi, District- Buxar.
 4. Jain Kumar, Son of Ramashray Paswan, Resident of Village- Akauna, P.O.- Sohmai, P.S.- Dhanarua, District- Patna.
 5. Ripunjay Kumar Ranjan, Son of Raj Narayan Rakesh, Resident of Mohalla- Mitramandal Colony, Sector- D, P.O.- Anisabad, P.S.- Phulwarisharif, District- Patna.
 6. Sachin Kumar, Son of Shri Girja Choudhary, Resident of Mohalla- Wadar Maudi, P.O.- Gulzarbagh, P.S.- Alamganj, District- Patna.
 7. Raghuveer Paswan, Son of Ram Chandra Paswan, Resident of Lekhanagar, Cantt. Road, P.O.- Khagaul, P.S.- Khagaul, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Secretary-cum-Legal Remembrancer, Department of Law and Justice, Government of Bihar, Patna.
4. Bihar Public Service Commission, Bailey Road, Patna through its Secretary.
5. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
6. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.
7. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Bailey Road, Patna
8. The High Court of Judicature at Patna, Patna through its Registrar General.
9. The Registrar General, High Court of Judicature at Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s : Mr. Lalit Kishore, AG

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY



ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

21 13-01-2020 Heard learned counsel for the petitioners and the respondents.

Petitioners have prayed for the following reliefs:

“(i) The petitioners are invoking the writ jurisdiction of this Hon’ble Court challenging the vires/constitutional validity of the amendments made in Bihar Civil Service (Judicial Branch) Recruitment Rules published through the General Administration Department vide notification dated 28.12.2016 in particular the vires of the Rule 3A(iv), (v) & (vi) (amended through clause 2 of the notification), proviso to Rule 5 (amended through clause 4 of the notification), proviso to Rule 6 (amended through clause 5 of the notification), and Rule 15 (amended through clause 6 of the notification), as the said amendments amending Rule 3A, 5, 6 & 15 of the 1955 Recruitment Rules are arbitrary and unreasonable.

(ii) Further the Hon’ble Court may be pleased to hold that the amendments made in Bihar Civil Service (Judicial Branch) Recruitment Rules published through the General Administration Department vide notification dated 28.12.2016 in particular the vires of the Rule 3A(iv), (v) & (vi) (amended through clause 2 of the notification), proviso to Rule 5 (amended through clause 4 of the notification), proviso to



Rule 6 (amended through clause 5 of the notification), and Rule 15 (amended through clause 6 of the notification), as the said amendments amending Rule 3A, 5, 6 & 15 of the 1955 Recruitment Rules is arbitrary, unconstitutional and devoid of reasonableness as it seeks to treat all the reserve categories including the women of general category to be alike and all have been granted relaxation of 5% in the cut-off marks for preliminary, mains examination and aggregate as that of the general category.

(iii) Further the Hon'ble Court may be pleased to hold that the amendments made in Bihar Civil Service (Judicial Branch) Recruitment Rules published through the General Administration Department vide notification dated 28.12.2016 in particular the vires of the Rule 3A(iv), (v) & (vi) (amended through clause 2 of the notification), proviso to Rule 5 (amended through clause 4 of the notification), proviso to Rule 6 (amended through clause 5 of the notification), and Rule 15 (amended through clause 6 of the notification), as the said amendments amending Rule 3A, 5, 6 & 15 of the 1955 Recruitment Rules is arbitrary, unconstitutional and devoid of reasonableness as it seeks to treat all the reserve categories including the women of general category to be alike and all have been prescribed same maximum age as eligibility criteria.

(iv) Further, the Hon'ble Court may hold that the notification dated 28.12.2016 shall



not be implemented for the selection process meant for selecting Judicial Magistrate/Civil Judge (Junior Division) through 29th Bihar Judicial Service Competitive Examination for which the advertisement no.1/2016 was published and selection process has been carried out by the Bihar Public Service Commission under the supervision of Patna High Court.

(v) Further, the Hon'ble Court may upon considering the Hindi & English version of notification be pleased to hold that the English version of notification which states that the notification shall be applicable for the future selection processes be taken into consideration ignoring the Hindi version which states the immediate application of the notification.

(vi) Further, the Hon'ble High Court may be pleased to direct the respondent no.7, the Controller of Examination, Bihar Public Service Commission, not to implement the impugned notification dated 28.12.2016 until the pendency of the present writ application.

(vii) Further, the Hon'ble High Court may be pleased to direct the respondents to produce the record in relation to effective consultation with the Hon'ble High Court so far as it relates to the amendment in Rule 3A, proviso to Rule 5, proviso to Rule 6 & Rule 15 of the Bihar Civil Services (Judicial Branch) Recruitment Rules, 1955."

Learned counsel for the petitioners seeks permission



to withdraw the present petition.

Prayer allowed.

The petition is accordingly disposed of as withdrawn.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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