

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12685 of 2016

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Dharmendra Kumar Pandey Son of Sri Parmeshwar Pandey, Resident of Village and P.O. Gangauli, P.S. Simari, District-Buxar. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
 2. The Principal Secretary, Education Department, Government of Bihar, Patna
 3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
 4. The Joint Director, Primary Education, Education Department, Government of Bihar, Patna.
 5. The Staff Selection Commission, Bihar, Patna through the Chairman, Veterinary College Campus, Patna.
 6. The Chairman, Staff Selection Commission, Bihar, Patna, Veterinary College Campus, Patna.
 7. The Secretary, Staff Selection Commission, Bihar, Patna, Veterinary College Campus, Patna. Respondent/s
 8. Rajesh Kumar Singh, Son of Shri Ramanand Singh, R/o village & PO-Ramchua, PS-Ramgunj, Distt. -Banka. ...Respondent/s
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Appearance :

For the Petitioner/s	:	M/s Nikhil Kumar Agrawal and Aditi Hansaria, Adv.
For the State	:	Mr. Arvind Ujjwal- SC
		Mr. Maruth Nath Roy, AC to SC 4
For the S.S.C.	:	Mr. Satyabir Bharti, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL ORDER

15 11-02-2021 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Bihar Staff Selection Commission.

This matter relates to appointment of Assistant Teacher in Primary School and the recruitment was to be made against 34540 posts and the recommendation was made by the Staff Selection Commission. The name of the petitioner is at serial no. 16, as mentioned in Annexure-R8, under the category of visually challenged person against 1% reserved post of the



total vacancy was earmarked for the visual handicapped person.

It has been pointed out by the counsel for the petitioner that Nutan Kumari, who is standing at serial no.4, falls in the general category, did not join the said post. As the petitioner is also in the same category, prayer has been made that he should be adjusted against that vacancy whereupon Mr. Satyabir Bharti, Advocate for the Respondent has pointed out that Meera Kumari, who is at serial no. 10, is also a general category candidate and if general category candidate does not come then the next candidate will be preferred to the said post. He has further argued that as per the executive guidelines of the State Government, in the event of non-joining the post it would be carried forward but the question would arise whether the said guidelines will have a statutory force or is a rule under Article 309 of the Constitution of India.

For the present, this Court is not deciding this issue. For the convenience of the parties, as they belong to the visually handicapped category, they are in special class in the society so the benefit should be extended to those who are in the selected list.

In such view of the matter, if Nutan Kumari has not joined the said post, the same should be extended to the next



and if the next is not coming forward, in such circumstances, it should be offered to the next who is at serial no. 11 and in the similar manner, it will go upto the serial no. 15 and if any out of them does not join the said post, in such circumstances, the petitioner would be adjusted and he will not take precedence over others.

The State is directed to send requisition pointing out that the one post for general category is still vacant and the Bihar Staff Selection Commission, after receipt of the same, will act as per the aforesaid order.

If the candidates standing at serial nos. 10 to 15 failed to participate in the counselling, it goes without saying that the candidate standing at serial no. 16 will get the said benefit.

All the process should be completed preferably within a period of three months from the date of receipt/production of a copy of this order.

With the above observation and direction, this writ petition is disposed of.

(Shivaji Pandey, J)

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