

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12838 of 2018

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Jayashree, daughter of Jaimangal Prasad, resident of Village- Lakri Dhai,
Chandwara, P.S.- Musahari, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna
2. The Director, Department of Higher Education, Government of Bihar, Patna.
3. The Bihar Public Service Commission, Bailey Road, Patna through its Secretary.
4. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
5. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Bailey Road, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dr. Shashi Shekhar Kishore
For the State	:	Mr. Ram Vinay Prasad Singh, AC to GA-12
For the BPSC	:	Mr. Satya Bir Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 02-03-2021 Heard learned counsel for the parties.

The grievance of the petitioner in the present application is that the petitioner has been ousted from the zone of consideration because the candidates who otherwise qualified in general category belonging to the OBC category has been shifted to OBC category and as such, the merit position of the petitioner has been disturbed and the petitioner has been ousted from the zone of consideration.



Learned counsel appearing on behalf of the petitioner submits that certain candidates belonging to EBC category on account of merit would have been considered for general category but as per their choice, they have been included in the EBC category, resultantly, the petitioner has been ousted from the zone of consideration for appointment in EBC category.

The law is well settled that reserved category candidate qualified in merit cannot be forced to be included in the unreserved category to their disadvantage. In this case, accepting the merit position in general category would lead the reserved category candidate to inferior position in order of merit in unreserved category and as such those candidates who qualified in unreserved category have chosen to be considered and selected in the EBC category. In the aforesaid circumstance, there was no vacancy available for consideration of appointment of the petitioner in the EBC category.



This Court does not find any reason to interfere
in the decision of the Bihar Public Service Commission.

The writ petition stands dismissed.

(Anil Kumar Upadhyay, J)

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