

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16698 of 2022

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Shambhu Nath Sikaria, Son of Late Radha Krishna Sikaria Resident of
Muhalla- Radha Nagar, P.S. Motihari Town, District- East Champaran,
Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department,
Government of Bihar, Patna.
3. The Deputy Secretary, Urban Development and Housing Department,
Government of Bihar, Patna.
4. The State Election Commission, Bihar through the Secretary,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prince Kumar Mishra, Advocate
For the Respondent/s	:	Mr.Yogendra Prasad Sinha (AAG 7)
		Mr. Shambhu Nath Sikaria, Advocate
		Mr. Girish Pandey, Advocate
		Mr. Sanjeev Nikesh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

2 02-12-2022 Petitioner has prayed for the following relief(s):

“(a) For issuance of writ in the nature
of Certiorari quashing the notification bearing
Meme No. 3120 dated 21.10.2022, issued by the
Urban Development and Housing Department,
Government of Bihar (hereinafter referred as



“**impugned notification**”), as same is in the teeth of law that down by this Court in the case of *Sunil Kumar vs The State of Bihar*- CWJC No. 12514/2022 dated 04/10/2022, whereby and whereunder State government was directed to constitute a **dedicated commission** for ascertaining the political backwardness of “Other Backward Classes” (hereinafter referred as “OBC”) for grant of reservation in the municipal bodies of the State and not only of Extremely Backward Class (hereinafter referred “EBC”) as has been done vide impugned notification – by conducting “Triple Test” as contemplated by the Apex Court in the case of (i) K. KrishnaMurthy & Ors. v. Union of India & Ors., (2010)7 SCC 202 (ii) Vikas Kishanrao Gawali v. State of Maharashtra, (2021) 6 SCC 73 (iii) Suresh Mahajan v. State of M.P., 2022 SCC OnLine SC 589 (vi) Rahul Ramesh Wagh v. The State of Maharashtra, Special Leave to Appeal (C) No(s). 19756/2021 (v) Manmohan Nagar v. The State of Madhya Pradesh, SLP (C) No. 20734/2021 and therefore same deserves to be quashed with a direction to carry out the triple test strictly in terms of law laid down by this Court and Hon’ble Supreme Court of India.

(b) For issuance of writ in the nature of mandamus directing and commanding upon the respondent authorities, to constitute a dedicated commission for ascertaining the political backwardness of entire group of “Other Backward Classes” and not only limited to



Extremely Backward Classes for grant of reservation in the municipal bodies of the State – by conducting ‘Triple Test’ as contemplated by the Apex Court in the case of (i) K. KrishnaMurthy & Ors. v. Union of India & Ors., (2010)7 SCC 202 (ii) Vikas Kishanrao Gawali v. State of Maharashtra, (2021) 6 SCC 73 (iii) Suresh Mahajan v. State of M.P., 2022 SCC OnLine SC 589 (vi) Rahul Ramesh Wagh v. The State of Maharashtra, Special Leave to Appeal (C) No(s). 19756/2021 (v) Manmohan Nagar v. The State of Madhya Pradesh, SLP (C) No. 20734/2021.

(c) For any other relief to which the Petitioner may be entitle.”

In view of the order dated 28.11.2022/01.12.2022, passed by Hon’ble Supreme Court in S.L.P. (C) No.20877/2022, titled as Sunil Kumar Vs. The State of Bihar & Ors., Shri Mrigank Mauli, learned senior counsel for the petitioner, withdraws the present petition, reserving liberty to file afresh, should the need so arise with the finalization of the proceedings before Hon’ble Supreme Court.

Prayer allowed.

Petition is disposed of as withdrawn with the liberty aforesaid.



Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

K.C.Jha/DKS

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