

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6336 of 2023

Manisha Kumari Daughter of Late Bhagelu Sah Wife of Rahul Kumar,
Resident of Village-Manguraha P.O. and P.S.-Gaunaha, District-West
Champaran at Present Rahul Kumar Son of Ram Narayan Prasad Resident of
Mohalla-Main Road Raxaul P.O. and P.S.-Raxaul District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, General Administration Department,
Bihar, Patna.
2. The Secretary, Bihar Technical Service Commission 19 Harding Road,
Patna.
3. Lovely Kumari Daughter of Vishnudev Mahto District-Lakhi Sarai (Serial
No. 25 B.C. Category Same Kit Merit number 201) through Secretary, Bihar
Technical Service Commission 19 Harding Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Padmanabh Kashyap, Advocate
For the Respondent/s	:	Ms. Babita Kumari, AC to SC- 1
For the B.T.S.C.	:	Mr. Nikesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-07-2023

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the Bihar Technical Service
Commission (for brevity 'BTSC').

2. The writ petitioner seeks quashing of the
communication dated 10.04.2023 (Annexure- 14), whereby she
has been informed that she was not a selected candidate.
Petitioner's candidature has not been considered because in the
online application form, she claims to have entered reservation
category as Economically Backward Classes (EBC). The
documents, in support of her claim showed her to be member of



the Backward Classes (BC) (*sonar*).

3. Learned counsel for the petitioner submits that at a subsequent stage, when objection were called for, in the process of selection, petitioner had submitted an objection seeking correction of her reservation category from EBC to BC, by submitting that in the online application form, EBC category was claimed due to a typographical error of inadvertence, as the certificate, in support of her claim, which were submitted at that time, clearly showed her to be a member of the BC category. It is the petitioner's complain that in spite of error being inadvertent, and apparent, her candidature has not been accepted by the Authorities.

4. Learned counsel for the respondent- Commission, on the other hand, submits that the Commission as well as the applicants are bound by the terms of the advertisement. The procedure does not leave discretion in the Authorities to change the category of reservation, once it is claimed as a particular category in the online application form.

5. Clause- 4 of the Advertisement, which deals with the issue of reservation is clear in its intent that no such correction or modification is to be allowed. Specific reliance is placed on Clause- 4(i), Note (iii) & 4 (vi), which reads as



follows:-

4. आरक्षण:-

(i) ऑनलाईन आवेदन के इंगित कॉलम में आरक्षण का दावा नहीं करने पर आरक्षण का लाभ नहीं मिलेगा ।

नोट- (iii) आरक्षित कोटि के उम्मीदवार अपनी जाति के अनुरूप आरक्षण के संबंध में पूर्ण रूप से संतुष्ट होने के पश्चात् ही आरक्षण का अंकन आवेदन के संबंधित कॉलम में करेंगे एवं आवेदन भरते समय उनके पास आरक्षित कोटि के अनुरूप सक्षम प्राधिकार से निर्गत प्रमाण-पत्र उपलब्ध होना अनिवार्य होगा। आरक्षण कोटि में सुधार / बदलाव पंजीकरण के उपरान्त नहीं किया जा सकेगा। दावा किए गए कोटि से इतर कोटि का प्रमाण-पत्र प्रस्तुत करने अथवा अन्य किसी प्रकार की त्रुटि होने पर आरक्षण का दावा- मान्य नहीं होगा। (Emphasis mine)..

(vi) सामान्य प्रशासन विभाग के ज्ञापांक - 16144, दिनांक 28.11.2012 के आलोक में नियुक्ति प्रक्रिया के बीच आरक्षण कोटि में सुधार / बदलाव नहीं किया जा सकता है।

6. He submits that the procedure specified in the advertisement is final and binding, and it is not open to the Authorities to deviate from the same, much less give the petitioner any right to claim a benefit contrary to the terms of



advertisement which are being applied uniformly to all candidates.

7. Learned counsel for the respondent-Commission submits that under a similar circumstances, this Court has earlier rejected claim for such change having regard to the similar provisions contained in the advertisement. Reference is made to unreported decision of this Court, passed in *C.W.J.C. No. 1128 of 2018 (Sunil Prasad vs. State of Bihar & Ors.)*.

8. The Court having examined the provisions of the advertisement, would observe that the same are clear and lay down mandatory, non-discriminatory & non-arbitrary provisions, which bars correction in the category of reservation, once it is entered in the online application.

9. It also mentions in unequivocal terms that if the certificate based on which the applicant claims reservation is at variance with the category in which the applicant claims reservation, as in the instant case, then claim for reservation will not be entertained.

10. This Court also finds that the petitioner, as per averment made in the writ petition, has been considered as a candidate in the unreserved category. As per her own assertion, she obtained 58.6385 % as against cut off 59.1684 % for the



unreserved category, and therefore was not eligible for appointment against unreserved vacancies. In view of the terms of advertisement considered above she is also not entitled to be selected by extending her the benefit of any reserved category as that would be contrary, to the terms of advertisement.

11. Writ petition is, accordingly, dismissed.

(Madhuresh Prasad, J)

Raj kishore/-

AFR/NAFR	NAFR
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