

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9422 of 2023

1. Chandni Kumari Daughter of Randhir Kumar, Resident of H/o Randhir Kumar, Priyadarshi Nagar, DPS More, Bailey Road, Danapur, Police Station-Rupaspur, District-Patna (Bihar)-801503.
2. Kumari Jyotsna Daughter of Harishchandra Jha Resident of H/o Harishchandra Jha, Chappki, Laxmisagar, Near Chappki Panchayat Bhawan, Police Station-Darbhangha Sadar, District-Darbhangha (Bihar)-846009.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The Secretary, Department of Science, Technology and Technical Education, Government of Bihar, Technology Bhawan, Vishwesharaiya Bhawan Campus, Bailey Road, Patna-800015
4. The Director, Department of Science, Technology and Technical Education, Government of Bihar, Technology Bhawan, Vishwesharaiya Bhawan Campus, Bailey Road, Patna-800015
5. The Bihar Public Service Commission, through the Secretary, 15, Jawahar Lal Nehru Marg, Bailey Rd, Patna, Bihar 800001.
6. The Chairman, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Rd, Patna, Bihar 800001.
7. The Secretary, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Rd, Patna, Bihar 800001.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Kumar Kaushik, Advocate
For the State	:	Smt. Archana Meenakshee, GP6
For the BPSC	:	Mr. Sanjay Pandey, Advocate
		Mr. Nishant Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 21-09-2023 Heard learned counsel for the petitioners and learned counsel for the Bihar Public Service Commission (hereinafter referred to as the 'BPSC') as also learned counsel for the State.

2. The petitioners in the present case are seeking the following reliefs:-



“(i) For issuance of an order, direction or a writ of *certiorari* for quashing and setting aside the final result dated 01.06.2023 against advertisement no.66/2020 published by the Bihar Public Service Commission for appointment to the post of Assistant Professor in the subject of Mathematics in various Government Engineering Colleges maintained by the Department of Science and Technology and Technical Education, Government of Bihar to the extent to which female candidates who are not permanent residents of the State of Bihar have been allowed horizontal reservation under the unreserved category.

(ii) For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to prepare the result for unreserved category afresh by excluding the female candidates who are not domiciled in the State of Bihar, but yet have been given the benefit of horizontal reservation to the extent of 35% in favour of women candidates under the unreserved category and further for a direction upon the respondent Bihar Public Service Commission to include only such candidates in the merit list under the category of 35% horizontal reservation for women who are permanent residents of the State of Bihar.

(iii) For issuance of an order, direction or an appropriate writ for staying the operation of the final result dated 01.06.2023 published by the respondent Bihar Public Service Commission during the pendency of this writ application and further for prohibiting them from issuing the letter of appointment in favour of those candidates who were given the benefit of horizontal reservation of 35% in favour of women under unreserved category despite the fact that they are not permanent residents of the State of Bihar.”

3. Mr. Kumar Kaushik, learned counsel for the petitioners submits that the horizontal reservation to the extent



of 35% for women must be confined to the permanent residents of the State of Bihar. Referring to the Resolution dated 20.01.2016 as contained in Annexure 'P/7' to the writ application, learned counsel submits that in fact the said resolution also says that the horizontal reservation of 35% has been made effective in order to empower the women in the State of Bihar and to ensure their active participation and positive role in the society.

4. Learned counsel submits that while for getting vertical reservation, the candidates in reserved categories have to satisfy prescribed conditions of being covered under the list of the State of Bihar to claim reservation, in open category/ unreserved category, the advertisement in question is completely silent.

5. Learned counsel for the BPSC submits that this issue has been discussed in the department and it has finally been observed in the Letter No. 12033 of the General Administration Department issued on 18.09.2017 that in open merit category, women from any State may come and occupy the place made for horizontal reservation.

6. Having heard learned counsel for the petitioners, the BPSC and the State, this Court is of the considered opinion



that if the prayer of the petitioners is allowed, it would amount to limiting the advertisement for the candidates who are residents of the State of Bihar. It would not be possible for this Court to exercise its extraordinary writ jurisdiction to interfere with the terms of the advertisement and pass an order contrary to the advertisement itself.

7. This Court finds no reason to grant reliefs prayed in this writ application. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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