

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2095 of 2023

Swet Sudha, Daughter of Sanjay Kuamr, Resident of New Sihauli, Ward No. 05, Dalmiya Nagar, P.O.-Dalmiya Nagar, Police Station-Dehri District-Rohtas, Mobile No. 7250333501.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administrative Department, Main Secretariat, Patna.
2. The Principal Secretary, General Administrative Department, Main Secretariat, Patna.
3. The Bihar Public Service Commission through its Chairman, Bailey Road, Patna.
4. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
5. The Joint Secretary Cum Controller of Examination, Bihar Public Service Commission, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr.Amit Shrivastava, Sr. Advocate Mr.Girish Pandey, Advocate Mr.Santosh Kumar, Advocate
For the State	:	Mr.Sheo Shankar Prasad, SC-8
For the Commission	:	Mr.Sanjay Pandey, Advocate Mr.Nishant Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 03-08-2023 1. Heard learned senior counsel for the petitioner
and learned counsel for the State, as well as learned counsel for
the respondent-Bihar Public Service Commission (hereinafter
referred as “Commission”).

2. The petitioner has participated in Combined Competitive Examination conducted by the respondent-Commission in the year 2018. The result of the said selection process (Annexure-5 to the writ petition) is dated 06.06.2021.



The admitted facts emerging from the pleadings is that the selection process did not contemplate preparation of any waitlist in respect of vacancies which remained unfilled due to non-joining of candidates for one reason or the other. Another admitted fact is that the petitioner has obtained 505 marks. She is a female candidate in Backward Class Category (BC Category), wherein the cutoff marks is 510. The petitioner, therefore, is way below the cutoff marks.

3. Learned senior counsel appearing for the petitioner submits that it is also not in dispute that nearly 200 vacancies exist, for some reason or the other, and if the authorities were to make available the vacancies, then the petitioner may be selected. Reliance is placed on various judgments of this court, copies of which have been annexed in the rejoinder, namely *Pallavi Kumari versus The Bihar Staff Selection Commission and Ors.* passed in *C.W.J.C. No. 9963 of 2020*, *Manoj Kumar Tiwari versus The State of Bihar and Ors.* passed in *C.W.J.C. No. 14921 of 2019*, *Akash Kumar versus The State of Bihar and Ors.* passed in *C.W.J.C. No. 1586 of 2023*, *The Secretary, Bihar Public Service Commission and Anr. versus Satish Kumar Tiwari and Anr.* passed in *L.P.A. No. 1301 of 2018*, *Hridayal Kumar and Ors.*



versus The State of Bihar and Ors. passed in *M.J.C. No. 809 of 2005*, *Sunil Kumar versus The State of Bihar and Ors.* passed in *C.W.J.C. No. 502 of 2021*, *Md. Mazhar Uddin versus The State of Bihar and Ors.* passed in *C.W.J.C. No. 7818 of 2021*, *Sarad Prakash versus The State of Bihar and Ors.* passed in *C.W.J.C. No. 10780 of 2020*, *Kanchan Kumar versus The State of Bihar and Ors.* passed in *C.W.J.C. No. 2396 of 2020*, *Swati Chaturvedi versus The State of Bihar and Ors.* passed in *C.W.J.C. No. 3952 of 2020* and judgment passed by the Hon'ble Apex Court in the case of *The State of Bihar versus Swati Chaturvedi and Ors.* arising out of *S.L.P. No. 11174 of 2021*.

4. The judgments relied upon by the petitioner are based on facts which are distinguishable from the case of the petitioner. In the said cases relied upon, either the rule under which selection process was being done, contemplated operating of a waiting list; or there was some communication from the Government to the Commission to make available the remaining vacancies to candidates next in order of merit, which was relied upon for allowing them to proceed in accordance with law. The facts in the cases relied upon by the petitioner are, therefore, totally at variance with the case of the petitioner where she is



way below the cutoff marks and the writ application has been filed in 2023, two years after the final result was published.

5. The writ application, therefore, is found to be devoid of any merit. The petitioner would not be entitled to claim issuance of any direction to the authorities to make available vacancies which existed in the year 2018 when the Court is taking up the matter in 2023 and it is common knowledge that normally every year the Commission conducts the Combined Competitive Examination.

6. Writ application is, therefore, dismissed.

(Madhuresh Prasad, J)

shashank/-

U			
---	--	--	--

