

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 6602 of 2023

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Gautam Kumar Son of Ishwar Prasad, Resident of Sarsaula Khurd, Sheohar,
P.S. and District - Sheohar, Bihar- 843329

... .. Petitioner

Versus

1. The State of Bihar
2. The State of Bihar through the Additional Chief Secretary, Panchayati Raj
Department, Bailey Rd, Veerchand Patel Road Area, Patna, Bihar- 800015
3. The Additional Chief Secretary, General Administration Department,
Government of Bihar
4. The Joint Director, Panchayati Raj Department, Bailey Rd, Veerchand Patel
Road Area, Patna, Bihar - 800015
5. The District Magistrate, Sheohar
6. The District Development Commissioner, Sheohar
7. The District Panchayat Raj officer -cum- Member Secretary, District
Selection Commission.

... .. Respondent/s

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Appearance:

For the Petitioner	:	Ms. Shrishti Singh, Adv. Mr. Pranav Kumar, Adv.
For the State	:	Mr. Ajay, GA-5 Mr. Pratik Kumar, Sinha, AC to GA-5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date: 22-01-2024

The present writ petition has been filed for directing the
Respondents to consider the case of the petitioner for
appointment on the post of Technical Assistant in the Panchayati



Raj Department in the District of Sheohar, advertised vide notice dated 03.08.2018, under the Physically Handicapped Category.

2. The brief facts of the case, according to the petitioner, are that an advertisement dated 03.08.2018 was issued for the purposes of making appointment on the vacant post of Technical Assistant and Accountant-cum-IT Assistant, wherein, apart from the eligibility criteria being specified in Clause-7, it was mentioned that the selection process would be conducted in light of the Government's Resolution No. 4046 dated 25.7.2018, which in turn postulates, under Clause 3 (iii) thereof that the reservation shall be as per the notification issued by the State Government from time to time.

3. The petitioner had applied for the post of Technical Assistant in the EBC (physically handicapped) Category, whereafter, his application was processed and his name was published in the counselling list at serial no. 54 and he was shown to be an EBC (physically handicapped) candidate. Nonetheless, although the petitioner had appeared for the counselling, his name did not find place either in the select list or in the waiting list, despite his name having figured in the draft select list.



4. The learned counsel for the petitioner has referred to the certificate for the person with disabilities, issued in favor of the petitioner by the competent authority to show that the petitioner is suffering from 55% permanent physical disability, pertaining to Post Polio Residual Paralysis from the right lower limb. The learned counsel for the petitioner has also referred to the resolution of the State Government dated 12.10.2017, which specifically provides for 4% reservation in favor of the physically disabled candidates. Lastly, the learned counsel for the petitioner has referred to a notification dated 13.03.2019, issued by the Panchayati Raj Department, Government of Bihar, Patna, whereby 4% reservation has been earmarked for the physically disabled candidates and under serial no. 3 thereof “Chalan Divyangta (locomotor disability)” has been specifically earmarked as one of the disabilities and taking the same into account, the Panchayati Raj Department has earmarked one post of Technical Assistant in the Sheohar District for the candidate suffering from physical disability, pertaining to Chalan Divyangta (locomotor disability).

5. Thus, the learned counsel for the petitioner has contended that since admittedly the select list does not depict that any candidate having physical disability has been selected for the



purposes of being appointed on the post of Technical Assistant, the entire selection process is vitiated in the eyes of law and in fact, the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna, has also admitted in his order dated 02.01.2024 that mistake has taken place and the State Government's policy of reservation qua the physically handicapped candidates has not been followed, inasmuch as though one post in the Sheohar District has been earmarked for physically handicapped category candidate but no physically handicapped category candidate has been appointed on the said post. It is also submitted that in any view of the matter, vacancies on the post of Technical Assistant still exist in the District of Sheohar, as has also been mentioned in the order dated 23.09.2021, passed by the Bihar Public Grievance Redressal Authority, District-Sheohar.

6. Per contra, though the Ld. counsel for the Respondents has admitted that the Respondent authorities have committed a mistake by not appointing at least one person in the District of Sheohar from the physically handicapped category, however, he submits that in case any physically handicapped category candidate would have been appointed, it would have been one Raghuvir Kumar, who has been appointed on the post of



Technical Assistant in the Scheduled Caste Category, inasmuch as he is having higher marks than the petitioner.

7. At this juncture, the learned counsel for the petitioner submits that since the post of Technical Assistant in the District of Sheohar under the physically handicapped category has been earmarked for Locomotor Disability, which the petitioner is also suffering from, he is the only best suitable candidate, a fact which has stood unrebutted in the affidavits, filed by the Respondents. To the aforesaid effect, the order dated 02.01.2014, passed by the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna, is held to be contrary to the factual aspect of the matter, as also law.

8. I have heard the learned counsel for the parties and perused the materials on record. It is an admitted position that for the District of Sheohar, one post has been earmarked for the physically handicapped category candidate, in terms of the aforesaid resolutions of the Government dated 12.10.2017 and 25.07.2018, as also reiterated by the subsequent notification, issued by the Panchyati Raj Department, Government of Bihar, Patna, dated 13.03.2019, nonetheless, the same has not been filled by a physically handicapped category candidate. It is



equally an admitted position, as has been informed by the learned counsel for the Respondent-State, that only two eligible physically handicapped candidates were available for the purposes of being considered for appointment on the post of Technical Assistant, one i.e. the petitioner and the other, namely, Raghuvir Kumar, however, this Court finds that since Raghuvir Kumar has already been appointed as a Technical Assistant against the Scheduled Caste category post, the natural corollary would be that the post earmarked for the physically handicapped candidate would go to the petitioner, as such he is required to be appointed on the post of Technical Assistant under the physically handicapped category quota, as per the aforesaid policy decision of the State Government, which also forms part of the aforesaid advertisement dated 03.08.2018.

9. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the Respondent authorities are directed to consider the case of the petitioner for appointment on the post of Technical Assistant under the physically handicapped category quota, in light of the observations made hereinabove and issue appropriate orders within a period of two weeks of receipt/production of a copy of this order.



10. The writ petition stands allowed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	09.03.2024
Transmission Date	NA

