

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1633 of 2017

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Dilip Paswan S/o Sri Prabhu Paswan, Resident of Village- Kutubpur, P.O. Kanhauli, P.S. Mahua, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, General Administration Department of Bihar, Patna.
2. The Secretary, Scheduled Castes and Scheduled Tribes Welfare Department, Government of Bihar, Patna.
3. The Additional Secretary to the Government, General Administration Department, Government of Bihar, Patna
4. The Most Backward Class, State Commission Bihar, Patna.
5. The Union of India, through Registrar General and Census Commission, Government of India, Ministry of Home Affairs, New Delhi
6. The Secretary, Jan Jatiya, Ministry of Works, Government of India, Shastri Bhawan, New Delhi.
7. The Secretary Scheduled Cast and Scheduled Tribe Commission, New Delhi.
8. The Secretary, Secretary Scheduled Cast and Scheduled Tribe Commission, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Md. Syed Qaiser Hasan, Advocate
For the State : Mr. Fazle Karim, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 05-12-2024 Though the present writ petition was filed for quashing the resolution as contained in Memo No.9532 dated 01.07.2015, issued under the signature of Additional Secretary to the Government, however, at the outset, the learned counsel for the respondent-State has fairly submitted that the Hon'ble Supreme Court of India, by a judgment dated 15.07.2024, passed in *Civil Appeal No.18802 of 2017 (Dr. Bhim Rao*



Ambedkar Vichar Manch Bihar, Patna vs. State of Bihar & Ors) and other analogous cases, has already quashed the aforesaid resolution dated 01.07.2015, hence the grievances of the petitioner have stood redressed.

2. In this regard, it would be relevant to reproduce paragraphs no.37 to 42 of the said judgment rendered by the Hon'ble Supreme Court in the case of ***Dr. Bhim Rao Ambedkar Vichar Manch Bihar, Patna*** (supra) hereinbelow:-

“37. The submission that the recommendation of the Commission for Extremely Backward Classes was binding on the State, is not a question to be determined here, inasmuch as, even if we accept the submission, such recommendation could relate only to the Extremely Backward Classes. Whether or not to include or exclude any caste in the list of Extremely Backward Class would be within the domain of the Commission. The Commission would have no jurisdiction to make recommendation with respect to any caste being included in the Scheduled Castes lists and, even if it makes such a recommendation, right or wrong, the State has no authority to proceed to implement the same when it was fully aware that the Constitution does not permit it to do so. The Provisions of Article 341 sub-Clause 1 and sub-Clause 2 are very clear and discrete. There is no ambiguity or vagueness otherwise requiring any interpretation other than what is mentioned therein. The State of Bihar has tried to read something in order to suit



its own ends for whatever reason, we are not commenting on the same.

38. The High Court fell in serious error in upholding the said Notification on a completely wrong premise without referring to Article 341 of the Constitution.

*39. Now comes the question with regard to protecting those Members of “**Tanti-Tantwa**” community who were extended benefit of Scheduled Castes pursuant to the Resolution dated 01.07.2015. In the present case, the action of the State is found to be mala fide and de hors the constitutional provisions. The State cannot be pardoned for the mischief done by it. Depriving the members of the Scheduled Castes covered by the lists under Article 341 of the Constitution is a serious issue. Any person not deserving and not covered by such list if extended such benefit for deliberate and mischievous reasons by the State, cannot take away the benefit of the members of the Scheduled Castes. Such appointments would under law on the findings recorded would be liable to be set aside. However, as we have found fault with the conduct of the State and not of any individual member of the “**Tanti-Tantwa**” community, we do not wish to direct that their services may be terminated or that recovery may be made for illegal appointments or withdrawal of other benefits which may have been extended. We are of the view that all such posts of the Scheduled Castes reserved quota which have been extended to the members of the “**Tanti-Tantwa**” community appointed subsequent to the Resolution dated 01.07.2015 be returned to the*



Scheduled Castes Quota and all such members of the “Tanti-Tantwa” community, who have been extended such benefit may be accommodated under their original category of Extremely Backward Classes, for which the State may take appropriate measures.

40. Accordingly, the Appeals succeed and are allowed.

41. The impugned Resolution dated 01.07.2015 is, hereby, quashed.”

42. It is further directed that such posts of the Scheduled Castes Quota which had been filled up by members of “Tanti-Tantwa” community availing benefit on the basis of Resolution dated 01.07.2015 may be returned to the Scheduled Castes category and such candidates of “Tanti-Tantwa” community be accommodated by the State in their original category of Extremely Backward Classes by taking appropriate measures.

3. Having regard to the facts and circumstances of the present case, the present writ petition stands disposed off in terms of the aforesaid judgment dated 15.07.2024, passed by the Hon’ble Supreme Court in the case of **Dr. Bhim Rao Ambedkar Vichar Manch Bihar, Patna** (surpa).

(Mohit Kumar Shah, J)

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