

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1138 of 2015

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Jay Prakash Sharma Son of Ram Chandra Sharma resident of Village -
Sutihara P.O.- Sutihara, Via - Sursand,P.S.- Parihar, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Patna
2. The Principal Secretary, Personnel and Administrative Reforms,
Government of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Department of Health, Government of Bihar, Vikas
Bhawan, New Secretariat, Patna
4. The Director - in - Chief, Department of Health, Government of Bihar, Vikas
Bhawan, New Secretariat, Patna
5. The Bihar Staff Selection Commission through its Secretary, Veterinary
College, Patna.
6. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna
7. The Secretary, Bihar Staff Selection Commission, Veterinary College, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha, Sr. Advocate
	:	Mr. Ugranath Malik, Advocate
For the Respondent/s	:	Mr. Md. Anwar Karim, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 01-08-2024 Heard Mr. Ajay Kumar Sinha, learned Senior

Counsel along with Mr. Ugranath Malik, learned counsel
appearing on behalf of the petitioner and Mr. Md. Anwar Karim,
learned AC to GP-10 for the State.

2. The petitioner in paragraph no. 1 to the present writ
petition has sought *inter alia* following relief(s), which is
reproduced hereinafter:

***"That this is an application for
issuance of a writ of certiorari for quashing that
part of the advertisement No. 04040114 issued by***



the Bihar Staff Selection Commission by which the Commission advertised less than 50% post for General Category candidates i.e. 3323 against 6758 vacancies instead of 3379 vacancies ignoring the direction of Hon'ble Supreme Court in which it has been specifically stated that in no event more than 50% post will be reserve for selection for appointment and also issuance of a writ of Mandamus directing/commanding the respondents to advertise and to consider and to fill up 50% post to General Category from General Categories Candidates”.

3. Mr. Md. Anwar Karim, learned senior panel counsel has submitted that the action of the State, as well as, the Bihar Staff Selection Commission in selecting 3325 candidates from the General Category is against the mandate of law laid down by the Hon'ble Supreme Court in case of ***Indra Sawhney vs. Union of India*** reported in ***AIR 1993 SC 477***. Learned counsel has also referred to paragraph no. 8, which has clarified the position that mandate to Constitution has to be followed by the State particularly in the case of appointment. In the present case, the respondents have admitted that only 3325 vacancies were filled up from the General Category candidates and still 34 seats are vacant. According to the calculation, 50% of total vacancies of 6758 comes to 3379 but having not filled up the 34 seats from General Category candidates requires necessary action on the part of the State Government.

4. Considering the aforesaid submissions and the



counter affidavit which has been filed on behalf of the respondent nos. 5, 6 and 7, in which at paragraph no. 11, it has been informed that the total vacancy of General Category candidates is 3325 and the same has been filled up. As such, the number of vacancy calculated by the State and the Examining Body is required to be reexamined in accordance with the law laid down by the Apex Court in the case of *Indra Sawhney* (supra) and if vacancy in General Category candidates is available then the same is required to be filled up from the available General Category candidates in the panel.

5. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

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