

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11265 of 2024

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Ram Manohar Pandey S/o Sri Brajendra Kumar Pandey Resident of Mohalla-
Kalyan Vihar Ambedkar Path, Police Station-Rupaspur, Post Office-B.V.
College, Patna-800014, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources Department, Government of Bihar, Niyojan Bhawan, near Income Tax Golambar, Jawaharlal Nehru Path, Patna-800001.
2. The Bihar Public Service Commission through the Secretary, Bihar, Vishweswaraiya Bhawan, Bailey Road, Patna-800001.
3. The Secretary, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna-800001.
4. The Examination Controller, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna-800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Navin Prasad Singh, Adv.
	:	Mr. Narayan Singh, Adv.
For the State/s	:	Mr. P.K. Shahi, AG
	:	Mr. Kumar Manish, SC5
For the BPSC	:	Mr. Sanjay Pandey, Adv.
	:	Mr. Nishant Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 01-08-2024 Heard learned counsel for the petitioner, learned senior counsel Mr. P.K. Shahi, Advocate General of Bihar with learned counsel Mr. Kumar Manish, SC5 for the State and learned counsel Mr. Sanjay Pandey for the BPSC.

I.A. No. 01 of 2024

2. Learned counsel for the petitioner submits that the present interlocutory application has been filed on behalf of the petitioner for stay on conducting of the written (objective)



competitive examination by the BPSC scheduled to be held on 02.08.2024, for the 76 posts in total of Vice-Principals and equivalent in the Industrial Training Institutes of Bihar pursuant to the Advertisement No.28 of 2024 dated 05.03.2024.

3. Counsel further submits that the said advertisement in respect of vacant posts has advertised as per the Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Amendment Act, 2023. But in the light of the judgment dated 20.06.2024 of Division Bench of this Hon'ble Court in C.W.J.C. No.16760 of 2023 and other analogous cases, the said amendment Act of 2023 has been declared ultra vires indicating that the Bihar Reservation of vacancies in the posts and services (for scheduled castes, Scheduled Tribes and Other Backward Classes) Amendment Act, 2023 is not good law according to the Constitution.

4. Counsel submits that the said advertisement has come by virtue of the law, which was subsequently become ultra vires by the Division Bench of this Hon'ble Court. He further submits that it is due to this reason, the advertisement which has been published in consonance with the Act of 2023 must not go and the exam which is scheduled to held on 02.08.2024 be



stayed.

5. Learned Advocate General submits that it is true that the said Act of 2023 become declared ultra vires by the Hon'ble Division Bench of this Hon'ble Court, but it is also true that the said decision has been challenged before the Hon'ble Supreme Court in SLP(C) No.14086 of 2024 and it is kept pending before the Hon'ble Supreme Court for further hearing in this matter.

6. Learned Advocate General further submits that the State of Bihar is putting a fair stand in this matter that the process of examination may not be stopped and the State of Bihar shall take care of and shall publish the result in the light of the law which shall prevail on the date of publication of the result. He submits that if on the said date, the Act of 1991 shall prevail then result shall be published by virtue of Act of 1991, but in case, the Act of 2023 shall prevail then in that case, result shall be published by virtue of Act of 2023. In support of his argument, he submits that taking examination is cumbersome process and it shall not be appropriate to stay the examination particularly when all preparation for taking examination has been made by the BPSC.

7. In the light of the submissions made by the parties,



this Court agrees on the contention of the State that a process of examination is really cumbersome process and particularly, when the Advocate General of Bihar is undertaking on behalf of the State that result of the present examination in question shall be published in accordance with law prevalent on the day of the publication of the result.

8. As such, this Court is of the firm view that there is no need of interference in the process of examination and in this view of the matter, the present I.A. No.01 of 2024 is hereby rejected in the light of the undertakings made by the Advocate General.

Re:- C.W.J.C. No.11265 of 2024

9. It transpires to this Court that after disposal of the present I.A. No. 01 of 2024, there is no need of further hearing in the present C.W.J.C. No.11265 of 2024, and hence, the present writ application is here disposed off.

(Dr. Anshuman, J.)

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