

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12962 of 2024

Ashok Kumar Sinha Son of Late Jagarnath Prasad Singh Resident of Ward No-4, Village- Daulatpur Chandi, P.S-Hajipur Sadar, District-Vaishali.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
- 2. The Principal Secretary, Law Department, Bihar, Patna.
- 3. The Secretary-Cum-Legal Remembrancer, Law Department Bihar, Patna.
- 4. The Joint Secretary-Cum-Member, Selection Committee, Law Department, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar No. 1, Advocate
For the State	:	Mr. P.K Shahi, AG
		Mr. Vikas Kumar, Advocate
		Mr. Amish Kumar, Advocate
		Mr. Sanjiv Kumar, Advocate
		Mr. Prabha Narayan Sharma, Advocate
		Mr. Manish Dhari Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 04-09-2024 The petitioner is concerned with Rule 5 (2)(d) of the Bihar Law Officers (Engagement) Rules, 2023. The petitioner submits that there is no clarity in the said Rule as to the reservation contemplated and this works against Section 4 of the Bihar Reservation Act, 1991 (in short ‘the Act’). The petitioner contends that the very same reservation as applicable in Section 4 of the Act has to be brought in, in the challenged Rule since otherwise it would create an anomalous situation.



2. We have to first notice that the Reservation Act is to provide reservation for direct recruitment to public services in which the appointments are made from the general public. The engagement of Law Officers is not an appointment as such and is hence regulated by the Bihar Law Officers (Engagement) Rules, 2023 as is brought out by the State now. The decision to grant reservation or not is a policy decision of the Government and it cannot be precipitated by judicial orders.

3. We, specifically, find that the challenged Rule only provides for proper representation of all sections of the society which is the declared policy of the Government.

4. The petitioner has also relied on *State of Punjab & Anr. vs Brijeshwar Singh Chahal & Anr; (2016) 6 SCC 1* to further buttress the challenge. The Hon'ble Supreme Court in the cited decision only held that there should be a fair, reasonable, transparent, objective and credible selection carried out of Law Officers of the State. The impugned Rule is in compliance of the directions. It was emphasized by the Hon'ble Supreme Court that capable Advocates are to be appointed, not only to uphold the Rule of Law but also assist Courts in doing complete justice; since the performance of the Law Officers affect public interest and enhances the quality of justice delivery. The



specific claim raised herein of reservation has not been referred to at all.

5. We find absolutely no reason to interfere with the challenged Rule and the writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

U			
---	--	--	--

