

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4065 of 2025

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Sabita Paswan, Wife of Abhay Kumar, resident of village Pinjrawan, P.O. Sahora, P.S. Sigori, (Paliganj), District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat Building, Patna.
2. The Additional Chief Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Chairman, Bihar Technical Service Commission, 19 Harding Road, Rajbanshi Nagar, Patna.
4. The Secretary, Bihar Technical Service Commission, 19 Harding Road, Rajbanshi Nagar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jai Vardhan Narayan, Adv.
For the Resp-State	:	Mr. Akash Raj, AC to GA-5
For the BTSC	:	Mr. Nikesh Kumar, Adv.
		Mr. Akshansh Shanker, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 17-03-2025

Heard the parties.

2. The petitioner is aggrieved with the revised selection list containing the cut-off marks published by the Bihar Technical Service Commission (for short ‘the Commission’) issued vide Memo No. 3896 dated 20.12.2024 in relation to the selection to the post of Junior Engineer (Civil/Electrical/Mechanical) for filling up the vacant post under



the reservation category (35% including women reservation), 60% and 40% for open category and B.H. category respectively in the light of the order dated 04.10.2024 passed by the Apex Court in **Shashi Bhushan Prasad Singh v. The State of Bihar and Others [SLP (Civil) No. 7257 of 2023]**.

3. Learned counsel for the petitioner referring to the averments made in the writ petition has contended that an advertisement bearing no. 01/2019 was issued by the Commission on 08.03.2019 inviting applications for appointment to the post of (Civil/Mechanical/Electrical) to be filled up in various departments under the Water Resources. The petitioner on being found eligible, applied for the post of Junior Engineer (Mechanical). On being satisfied, the petitioner was asked for counselling on 05.11.2020, wherein she submitted all the relevant documents as well as the testimonials. After completion of all the paraphernalia, the Commission vide Letter no. 636 dated 02.04.2022 issued a merit list of the selected candidates, wherein the name of the petitioner finds figure at serial no. 957 under the open category.

4. In the meanwhile, the cluster of the candidates being aggrieved with the prescriptions of the advertisement, have preferred different writ petitions, which finally came up for



consideration in SLP (Civil) No. 7257 of 2023 [**Shashi Bhushan Prasad Singh** (supra)]. The Apex Court after hearing the matter has been pleased to hold vide judgment dated 04.10.2024 that the action of scrapping the entire selection process is not permissible. In view of the peculiar circumstances of the case, particularly the prolonged pendency leading to huge number of vacant posts that hinder the Government's functioning, the Court found it appropriate for the State/BTSC to proceed with the fresh select list.

5. In compliance with the order afore-noted, the Commission has come out with a revised select list, wherein the name of the petitioner did not find figure. In the aforesaid premise, the petitioner approached the Public Information Officer, Bihar Technical Service Commission. However, when no information was received, in the meantime, the petitioner preferred the present writ petition. During the pendency of the writ petition, the petitioner received an information that on account of the petitioner, not being a native of the State of Bihar, her candidature was duly considered under the open category and since she has not secured the cut-off mark under the open category, her name did not find figure in the merit list.

6. Learned counsel for the Commission, at this



juncture, referring to the advertisement as contained in Annexure-P1 to the writ petition, especially clause 5.(ii) thereto, has contended that it has been made clear that the benefit of reservation shall only be accorded to those who are the residents of the State of Bihar.

7. Having heard the learned counsel for the respective parties as also in view of the admitted position that the petitioner is the permanent resident of the State of Jharkhand; though later on her marriage is solemnized with Abhay Kumar, R/o Village-Pinjrawan, P.O. Sahora, P.S. Sigori (Paliganj), District-Patna and she settled in the State of Bihar, this Court does not find any reason to interfere with the present writ petition. Moreso, when the specific prescription of the advertisement is not under challenge and the position in law is settled that person belonging to SC/ST/OBC category of the State on migration to another State, voluntarily or involuntarily would not be entitled to claim benefit of reservation, even though caste or tribe of same nomenclature is notified in State of migration since, if permitted, expression “in relation to the State” as mandated under Articles 341(1) and 342(1) would be rendered otiose [**vide Pankaj Kumar v. State of Jharkhand and Others (2021) 20 SCC 545**].



8. In view of the afore-noted settled position, the writ
petition being devoid of merit, stands dismissed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19-03-2025
Transmission Date	

