

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7463 of 2024**

Shilpi Suman Wife of/Care of - Varun Kumar Resident of Village- Dumri,  
Ward No. 11, SBI Bank, P.S. Shaympur Bhatha, District- Sheohar, Pin-  
843329.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Government of Bihar, Patna.
2. The Director-in-Chief, Health Department, Government of Bihar, Patna.
3. The Bihar Technical Service Commission through its Chairman.
4. The Secretary, Bihar Technical Service Commission, Patna.

... .. Respondent/s

**Appearance :**

|                      |   |                                                                           |
|----------------------|---|---------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Pranoy Kumar, Advocate                                                |
| For the State        | : | Mr. Ravi Kumar, A.C. to G.P.-13<br>Mr. Akshay Lal Prasad, A.C. to G.P.-13 |
| For the B.T.S.C.     | : | Mr. Nikesh Kumar, Advocate<br>Mr. Praveen Tiwari, Advocate                |

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

2      11-09-2025                      Heard learned counsel for the petitioner, learned  
counsel for the State as well as learned counsel for the Bihar  
Technical Service Commission.

2. The present application has been filed for the  
following reliefs:-

*(i) To issue an appropriate writ/writs,  
order/orders or direction/directions in the nature of  
mandamus for directing the respondents to publish  
the result of the petitioner as selected candidate for  
the post of Homeopathy Medical Officer under ST  
category because the cut off marks for selected  
candidates under ST(Female) category i.e, 38.0471  
whereas the petitioner has obtained 38.73 marks  
and the Bihar Technical Service Commission  
published the result for the post of Homeopathy*



*Medical Officer vide Letter No. 464 on dated 21/02/2024 in which the name of the petitioner is not included.*

*(ii) To issue an appropriate writ, order or direction in the nature of mandamus to appoint the petitioner as Homeopathy Medical Officer.*

3. From the facts of the case, it appears that the petitioner belongs to Lohar Caste and had claimed S.T. status on that basis. Subsequently, the Hon'ble Supreme Court in ***W.P. (C) 1052 of 2021 (Sunil Kumar Rai & Ors. vs. The State of Bihar & Ors.)*** held that Lohar and Lohra are different castes and quashed the notification issued by the State of Bihar granting S.T. status to Lohar caste.

4. The only question involved in this case is whether the judgment dated 21.02.2022 in ***W.P. (C) 1052 of 2021 (Sunil Kumar Rai & Ors. vs. The State of Bihar & Ors.)*** will have prospective effective or retrospective effect.

5. This question is now no more *res integra* as it has been considered and decided by a Division Bench in ***L.P.A. No. 399 of 2022 (Ashutosh Kumar vs. The State of Bihar & Ors.)***. Paragraph-12 of the said judgment reads as follows:-

*"12. The next question would be as to whether the Hon'ble Supreme Court decision has prospective effect or retrospective effect?"*



*The Hon'ble Supreme Court decision dated 21.02.2022 passed in the case of **Sunil Kumar Rai & Others Versus The State of Bihar and Others** (cited supra), it is not crystal clear from the Judgment whether it has retrospective or prospective. In the absence of any specific observation made by the Hon'ble Supreme Court, one cannot draw inference that it has prospective effect. On the very same issue relating to retrospectivity or prospectivity is concerned, the Hon'ble Supreme Court in the case of **Kanishk Sinha and Another Versus The State of West Bengal and Another**, reported in **2025 LiveLaw (SC) 259**, held that if there is no observation made by the Hon'ble Supreme Court to the extent whether any Judgment has prospective or retrospective effect in that event one has to draw inference that it has retrospective effect."*

6. In view of the above, the petitioner has not been able to make out a case for interference.

7. Accordingly, the present writ application stands dismissed.

(Sandeep Kumar, J)

Neha/-

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