

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10720 of 2025

Rita Kumari, D/o Ram Sagar Ram, Wife of Shri Raja Ram Prasad, Resident of VTC Kumhri, P.O. Kumhri P.S. Siwan District Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, General Administrative Department, Government of Bihar, Patna.
2. The Bihar Technical Service commission through its Secretary, 19, Harding Rd, Rajbansi Nagar, Patna, Bihar 800001.
3. The Heath Department, through its Secretary, 1st Floor, Vikas Bhawan, Bailey Rd, Patna, Bihar.
4. The Bihar Rajya Ayurvedic and Unani Board through its Chief Ayurvedic Officer, 1, Kali Mandir Road, Patna, Bihar - 800026
5. The Executive Director, State Health Society, Bihar, Parivar Kalyan Bhavan, Sheikhpura, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Lokesh Kumar, Adv.
For the Respondent/s	:	Mr. Standing Counsel (28)
For the BTSC	:	Mr. Nikesh Kumar, Adv.
		Mr. Akshansh Shanker, Adv.
For the BHS	:	Dr. Anand Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-07-2025

Heard the parties.

2. The petitioner, who is one of the aspirants for the post of Ayurvedic Medical Officer in terms with Advertisement No.04/2020 to 09/2020, on being aggrieved with non-inclusion of her name in the final result dated 21.02.2024, has questioned the same by filing the present writ petition.

3. It is the specific contention of the petitioner that despite the fact that the petitioner belongs to Scheduled Caste



Category, her candidature has been considered under Unreserved Category without there being any justifiable reason. While submitting application for the post, in question, in terms with the advertisement, the petitioner has submitted her caste certificate duly issued by the competent authority. When the petitioner was called for verification of the document(s), she was having certificate of Scheduled Caste; however, the respondent-Bihar Technical Service Commission (for short 'the Commission') has not considered it in right perspective and her candidature under the SC category came to be rejected; objection has been raised but to no effect. The petitioner also filed representation but till date no action has been taken, in the meanwhile, a fresh advertisement bearing no.05/2025 has been issued by the State Health Society Bihar. Hence, the present writ petition.

4. Refuting the aforesaid contention, learned Advocate for the Commission submitted that admittedly Advertisement No.04/2020 to 09/2020 has been finalized much earlier and successful candidates have already been appointed; however, none of the selected candidate has been made party in the present writ petition. Moreover, the final select list came to be published on 21.02.2024 and the present writ petition has been



filed after delay of one year four months that too when the fresh advertisement has been issued and a third party right has been created.

5. Drawing the attention of this Court to the terms of the Advertisement, especially Clause-14 thereof, learned Advocate for the Commission further contended that it is made clear that in case there shall be any mistake at the time of filling application, no subsequent rectification is permissible. Referring to para-13 of the writ petition, learned Advocate for the Commission submitted that it is the case of the petitioner that her candidature was declared to be considered under Unreserved Category, on the ground that she had not uploaded her SC certificate; the petitioner had uploaded the caste certificate in the name and address of the husband's domicile but at the time of counselling, she produced her father's caste certificate and domicile, which was considered by issuance of receipt of documents.

6. Before parting with the case, it would be pertinent to state here that the Court time and again cautioned that there cannot be any relaxation in terms and conditions of advertisement unless such power is specifically reserved in relevant rules and/or advertisement. It would be worth



benefiting to encapsulate relevant observation made by the Apex Court in the case of **Bedanga Talukdar v. Saifudaullah Khan & Ors. [(2011) 12 SCC 85]**.

“29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in



advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.”

7. Considering the settled law as also the fact that there is unexplained delay of more than one year and four months, in the meantime, a third party right has been created, apart from publication of a new advertisement, this Court does not find any reason to interfere in the present writ petition. Accordingly it stands dismissed.

(Harish Kumar, J)

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