

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17288 of 2012

1. Yogesh Ojha Son of Late Chhatheshwar Ojha Resident of Village- Semaria Ojha Patti, P.S.- Shahpur, District- Bhojpur, presently residing at Mohalla-Halim Katra, Near B.D. College, Mithapur, P.S.- Gardanibagh, Town and District- Patna
2. Bimal Kumar Jha Son of Late Shiv Kant Jha Resident of Village and P.O.- Shrikhandi Bhitha, Via- Sursand, District- Sitamarhi, Bihar, presently residing at near Neelam Homoeo Clinic, Mithapur 'B' Area, Bengali Road P.S.- Jakkanpur, Town and District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Health Department, Bihar, Patna
3. The Special Secretary, Health Department, Bihar, Patna
4. The Joint Secretary, Health Department, Bihar, Patna
5. The Additional Secretary, Health Department, Bihar, Patna
6. The Deputy Secretary, Health Department, Bihar, Patna
7. The Under Secretary, Health Department, Bihar, Patna
8. The Director-In-Chief, Health Services, Health Department, Bihar, Patna
9. The Director, Deshi Chikitsa-Cum-Nodal Officer (Ayush), Health Department, Bihar, Patna
10. Dy. Director (Homoeo), Health Department, Bihar, Patna
11. Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building Near Patna Airport P.O. Veterinary College, Patna
12. The Officer On Special Duty, Ayush Cell, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building near Patna Airport, P.O. Veterinary College, Patna
13. The State Health Society, Parivar Kalyan Bhawan, Sheikhpura, Patna through the Executive Director
14. The Executive Director, State Health Society, Parivar Kalyan Bhawan, Sheikhpura, Patna
15. The Administrative Officer, State Health Society, Parivar Kalyan Bhawan, Sheikhpura, Patna
16. The State Programme Officer, Ayush Cell, State Health Society, Parivar Kalyan Bhawan, Sheikhpura, Patna
17. The District Magistrate-Cum-Chairman, District Health Society, Aurangabad
18. The Civil Surgeon-Cum-Secretary, District Health Society, Aurangabad
19. The District Magistrate-Cum-Chairman, District Health Society, Katihar
20. The Civil Surgeon-Cum-Secretary, District Health Society, Katihar
21. The District Magistrate-Cum-Chairman, District Health Society, Vaishali at



Hajipur

22. The Civil Surgeon-Cum-Secretary, District Health Society, Vaishali at Hajipur
23. The District Magistrate-Cum-Chairman, District Health Society, Madhepura
24. The Civil Surgeon-Cum-Secretary, District Health Society, Madhepura
25. The District Magistrate-Cum-Chairman, District Health Society, East Champaran
26. The Civil Surgeon-Cum-Secretary, District Health Society, East Champaran
27. The District Magistrate-Cum-Chairman, District Health Society, Madhubani
28. The Civil Surgeon-Cum-Secretary, District Health Society, Madhubani
29. The District Magistrate-Cum-Chairman, District Health Society, Kaimur
30. The Civil Surgeon-Cum-Secretary, District Health Society, Kaimur
31. The District Magistrate-Cum-Chairman, District Health Society, Bhojpur
32. The Civil Surgeon-Cum-Secretary, District Health Society, Bhojpur
33. The District Magistrate-Cum-Chairman, District Health Society, Banka
34. The Civil Surgeon-Cum-Secretary, District Health Society, Banka
35. The District Magistrate-Cum-Chairman, District Health Society, Begusarai
36. The Civil Surgeon-Cum-Secretary, District Health Society, Begusarai
37. The District Magistrate-Cum-Chairman, District Health Society, Araria
38. The Civil Surgeon-Cum-Secretary, District Health Society, Araria
39. The District Magistrate-Cum-Chairman, District Health Society, Munger
40. The Civil Surgeon-Cum-Secretary, District Health Society, Munger
41. Tarkeshwar Singh Son of Ram Kumar Singh Village- Dhoraha, Tola-Pitanber Bigha, P.O.- Pandarva, District- Aurangabad
42. Renu Sinha Daughter of B.P. Sinha Resident of Friends Home Apartment, Flat No. 4, Road No. 10, New Patliputra Colony, Patna
43. Md. Abrar Hussain Son of Md. Ibrahim Village- Noorullahpur P.O. Daulatpur, Rausera, Begusarai
44. Khemani Gopal Ram Son of Shiv Kumar Khemani Resident of Choudhary Tola, Kahalgaon, P.O.- Kahalgaon, Bhagalpur
45. Md. Monazir Ahsan Son of Ansur Rahman Resident at Flat T.I. Phase-V, Sapna Apartment, Naya Tola, Patna
46. Kumari Sachidanandani Sinha Daughter of Sachidanand Prasad Resident of M. Karuana, P.O.- Chandhari, Nalanda
47. Shailendra Kumar Son of Kamleshwari Roy Resident of Village Singheshwar, P.O. Sukharam Manhara, Madhepura
48. Nawal Kishore Son of Saryuga Roy Village- Parei, P.O.- Jikapurpairari, East Champaran
49. Jitendra Kumar Son of Raghubir Prasad Singh C/O Gyan Prakash Singh, Resident at Kotwali, Village and P.O.- Jagdishpur, District- Bhojpur



50. Shalini Srivastava Daughter of Vijay Prakash Srivastava Near Sale Tax Office, P.O.- Bettiah Anchal Bettiah, West Champaran
51. Md. Firdaus Ansari Son of Md. Younus Ansari Village P.O.- Sihin Via-Hasua Nawadah, Nawadah
52. Anil Kumar Gupta Son of Devendra Prasad Gupta Reghubir Chaque Path, P.O.- Ram Patti, Madhubani
53. Radhey Shyam Prasad Keshri Son of Late Harihar Prasad Keshri Via Balihar Surajpura, District- Rohtas
54. Mithilesh Kumar Son of Rajendra Prasad Asha Homoeo Clinic B.P.L. Market Main Road, Belaganj, Gaya
55. Pradeep Kumar Son of Baldeo Das Sadhana Health Centre, Village and P.O. Silaw, Nalanda, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Fazle Karim, Advocate
For the State : Mr. Manoj Kumar, AC to GP-4
For the State Health Society : Mr. K.K.Sinha, Advocate
Mr. Shashi Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

C.A.V. JUDGMENT

Date :02-12-2025

Heard learned counsel for the petitioners and learned
counsel for the respondents.

2. The petitioners have filed the instant application for
the following relief(s):

*“i) For quashing of order contained in letter bearing
letter No. 567(De.Chi) dated 10.07.2012 (Annexure-
19) passed by the Additional Secretary respondent No.
5 whereby and whereunder the complaint dated
12.10.2011 (Annexure-15) filed by the petitioners
raising the violation of law and rules of reservation
and against the illegal selection and appointment of
the respondent Nos. 42, 45, 46, 47, 51, 52, 53, 54, and*



55 was rejected.

ii) For quashing of the order contained in letter no. 2017 dated 01.03.2012 (Annexure18) of the Administrative Officer whereby the complaint filed by the petitioners on 12.10.2011 sent through letter no. 20 dated 05.01.2012 (Annexure-17) by the Joint Secretary was rejected.

iii) For cancellation of the selection of the respondent Nos. 41 to 51 having no valid qualification and certificates and also no fulfilling the criteria on last date of filling the form contravening the provisions and the rules of the selections and appointment.

iv) For issuance of a direction to resift the Respondent no. 52, 53 and 55 against their respective category quota seats i.e. in BC and to resift the Respondent no. 54 against his respective category quota seats i.e. in EBC from the general category having their merit marks less than the petitioners as per the rules reservation.

v) For issuance of direction commanding the respondents to make appointment of the petitioners against the vacancy occurred on account of cancellation of the selection of private respondent nos. 41 to 55 against general category post with all consequential benefits including the seniority with effect from the date of appointment made to the private respondents and others.

vi) For issuance of direction commanding the respondents to maké enquiry against the respondent and erring officials who had contravened the rules and made the selection illegally and arbitrarily to the private respondent Nos. 41 to 55 and till now had not



got their certificates verified and award cost for harassing the petitioners up to this Hon'ble Court.

vii) For any other relief(s) for which the petitioners are found deemed entitled in the facts and circumstances of the case.”

3. The case of the petitioners in brief is that the Health Department, Government of Bihar decided to fill up 1544 posts of Ayush Doctors of Homoeopathy on contract basis through the State Health Society. A written test was conducted and in the merit list prepared both the petitioners were declared successful. They participated in the counselling held on 3.5.2010 and in the final eligibility verification list prepared on 15.7.2010 for Ayush Homoeopathic doctors, their names figured at Sl. nos.266 and 269.

4. It is submitted by learned counsel for the petitioners that four candidates belonging to the Backward Class (B.C.) and Extremely Backward Class (E.B.C.) category, if they had been appointed against their own quota in the reserved categories, consequently four seats in the General category would have fallen vacant and the petitioners would have been appointed under the General quota. Further, even after joining of the private respondents, their certificates were required to be verified by the Civil Surgeon which has not been done till date. This shows the malafides and connivance between the Civil



Surgeon-cum-Secretary of the District Health Society with the private respondents.

5. In response it is submitted that the State Health Society, Bihar wrote a letter dated 1.3.2012 to the Joint Secretary, Health Department stating therein that the disabled candidates of the B.C. and E.B.C. categories had been selected under the General category. So far as the State Health Society is concerned, it had merely posted the candidates selected as per the list provided by the Health Department. Further, a letter dated 10.7.2012 was sent by the Under Secretary of the Health Department to the petitioners rejecting their complaint filed on 12.10.2011. It is for these reasons that the petitioners have preferred the instant writ application for the reliefs prayed for as stated herein above.

6. The application is opposed by learned counsel appearing for the State Health Society. Referring to the counter affidavit, it is submitted that though the advertisement in question in the year 2008 was published by the State Health Society, however, the merit list of Ayush doctors was prepared by the Department of Health, Government of Bihar on the basis of the competitive examination conducted by the Bihar Combined Entrance Competitive Examination Board ('BCECE



Board' in short). So far as the Health Society is concerned, it only posted the selected candidates and had no other role to play. After conduct of the examination by the BCECE Board, the counselling was conducted by the Department of Health, Government of Bihar and the merit list of 3973 was forwarded to the State Health Society for appointment of 1544 Ayush doctors. Learned counsel for the State Health Society further submits that the merit list having been provided by the Health Department vide memo no.638 dated 22.4.2010, the validity of the panel after extension having expired on 31.8.2011, no further appointment can be made. All the vacancies except for the category of S.C./S.T. were filled up on the basis of the said panel/merit list.

7. Learned counsel appearing for the State of Bihar submitted that advertisement was published in the year 2008 for appointment of 1544 Ayush doctors on contractual basis. The rank of the petitioner being lower than the candidates selected in the merit list, he could not be appointed. Even the merit list/panels validity having expired in August, 2011, no further appointment can be made. It is further submitted that Clause 2 of the letter dated 5.1.2007 of the Personnel and Administrative Reforms Department clearly provides that as per merit, the



disabled quota candidates are selected/appointed in the General category. It is thus submitted that the private respondents were rightly selected in the General quota category. There is no merit in the writ application and the same be dismissed.

8. Heard learned counsel for the parties and perused the material on record.

9. The facts in brief are that on the respondents coming out with advertisement in the year 2008 for appointment of Ayush doctors on contractual grounds, both the petitioners herein who belonged to the General category applied. Though they cleared the written test and were empanelled in the merit list prepared on 15.7.2010 for Ayush Homoeopathic doctors, their names figuring at Sl. nos.266 and 269 respectively, they could not be appointed. As such they preferred this application.

10. The case of the petitioners as stated above is that some of the respondents who belong to the Disabled Quota (DQ) category, they should have been appointed against their category which would have left vacancy in the General/Unreserved category and consequently, the petitioners would have been appointed.

11. The appointment of the persons belonging to the disabled quota category is carried out as per the reservation



policy of the State Government contained in Resolution no.62 dated 5.1.2007 (Annexure 22 to the writ application) of the Personnel and Administrative Reforms Department, Government of Bihar.

12. A perusal of the resolution dated 5.1.2007 would show that Clause 1 thereof provides for 3% reservation for persons belonging to the disabled quota category. It further provides that separate seats would not be provided for this category and the appointments would be made in the respective category to which they belong. Further, Clause 2 of the resolution dated 5.1.2007 provides that in accordance with the merit, the candidate belonging to the disabled quota category will be selected under the General/Unreserved category.

13. In the opinion of the Court, the resolution dated 5.1.2007 is absolutely clear. If a person belonging to the disabled quota category as also reserved category for example of S.C. or S.T. or E.B.C. or B.C., if on merits, he is empanelled for selection under the General/Unreserved category, Clause 2 of the resolution dated 5.1.2007 would come into effect and the selection of the said person would be counted under the General category. This is what has been done in the case of selection of the private respondents as stated in the counter affidavit filed on



behalf of the respondent nos.1 to 8.

14. Thus, in view of the facts and circumstances stated herein above, the Court finds no merit in the case of the petitioners.

15. The application is dismissed.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	NAFR
CAV DATE	30.10.2025
Uploading Date	02.12.2025
Transmission Date	N/A

