

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17205 of 2022

=====

Rama Shankar (UID No. RAM13101983LAW00440767), Male, Aged about 39 years, Son of Ramchandra Pandit, Resident of House No. 49, Road No. 39, Raghunath Tola, Anishabad, P.S.- Gardanibagh, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Bihar State Higher Education Council through the Chairman, Patna, Bihar.
4. The Chairman, Bihar State Higher Education Council, Patna, Bihar.
5. The Bihar State University Service Commission through the Chairman, Patna, Bihar.
6. The Chairman, Bihar State University Service Commission, Patna, Bihar.
7. The Patna University, Patna, through the Vice-Chancellor.
8. Quemre Alam, C/O – Azazul Haque, R/O Village-Sandali, P.O and P.S.- Barauli, District-Gopalganj-841405.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate
		Mr. Vikas Kumar Jha, Advocate
		Mr. Prince Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Prabhakar Jha (GP-27)
		Mr. Umesh narayan Dubey, AC to GP-27
For the BSUSC	:	Mr. Pawan Kumar, Advocate
		Ms. Diksha, Advocate
For the P.U.	:	Mr. Manish Dhari Singh, Advocate
For the Resp. No.8	:	Mr. Abhinav Srivastava, Sr. Advocate
		Mr. Pushkar Bhardwaj, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 04-04-2025

Heard learned counsel for the parties.



2. The petitioner is aggrieved by the action of the respondent authorities in appointing the petitioner as Assistant Professor (Law) in Tilka Majhi Bhagalpur University, Bhagalpur pursuant to a selection made by the Bihar State University Service Commission (hereinafter referred to as “the Commission”) dated 30.09.2022 disregarding the preference given by the petitioner for selection and appointment as Assistant Professor (Law) in the Patna University, Patna.

3. The Commission had issued an advertisement dated 21.09.2020 for appointment to the post of Assistant Professors including the Assistant Professor for Law. The total number of posts advertised for Assistant Professor (Law) was 15, out of which, 5 posts were reserved for the candidates belonging to Extremely Backward Class (EBC). The petitioner belongs to EBC category.

4. As per Clause 9 of the Advertisement dated 21.09.2020, which provided for allotment of University, the Commission was to prepare a subject-wise common merit-list as per vacancy and reservation roster. Out of this common merit-list prepared, university wise merit-list was



again to be drawn by giving due consideration to the order of preference given by the Candidates. It was further provided in Clause 9.2 of the Advertisement dated 21.09.2020 that if a candidate of reserved category candidate(s) becomes eligible for the merit list of unreserved category, his appointment was to be made against a vacancy of general category with due regard to the order of his preference for the universities.

5. The petitioner had participated in the selection process under the category of EBC candidate with preference given in the following order:

(i) Patna University, Patna

(ii) Tilka Majhi Bhagalpur University, Bhagalpur

(iii) Babasaheb Bhimrao Ambedkar Bihar

University, Muzaffarpur

6. After conclusion of the selection process, select list dated 30.09.2022 was published by the Commission, wherein, petitioner was placed at serial no. 4 in unreserved category, though petitioner had participated in the category of EBC candidates. Thereafter, the petitioner was allotted Tilka Majhi Bhagalpur University, Bhagalpur for posting.



The five other candidates belonging to EBC category candidates have also been selected vide the select list dated 30.09.2022 as per the number of posts advertised in the advertisement for EBC category candidates and they have also been allotted different universities having regard to their preference.

7. The grievance of the petitioner is that though he had given Patna University as his first preference and placed higher in the merit-list than respondent no.8 namely, Quemre Alam, but he has not been appointed in the Patna University, Patna as per his preference, but the candidates, who have been placed lower in the merit-list than him, have been appointed in the Patna University in total disregard of the petitioner's preference.

8. It has been stated that the three candidates have been appointed in the Patna University as Assistant Professor (Law), out of which, two belongs to the EBC category candidates including respondent no.8 and the third candidate belongs to the Scheduled Caste (SC) category candidate.

9. The respondent-State, the respondent-



Commission, the respondent Patna University as well as private respondent no.8 have filed counter affidavits, wherein, they have taken a stand that the selection and appointment of the petitioner has been done in accordance with the terms and conditions stipulated in the advertisement as well as the statutes for appointment of Assistant Professor in the Universities of Bihar.

10. The respondents have relied on Clause 9 of the Advertisement as well as Clause 4.1 of Chapter-4 of the Statutes For the Appointment as Assistant Professor in the Universities of Bihar-2020 (hereinafter referred to as the “Statutes of 2020”).

11. Petitioner has relied on Clause 5.5 of Chapter-5 of the Statutes of 2020.

12. Clause 9 of the Advertisement; Chapter-4 and Clauses 5.0 and 5.5 of Chapter-5 of the Statutes of 2020 as relied on by the contesting parties are extracted hereinbelow for ready reference:

“9. Allotment of University

9.1 The Commission will prepare a subject wise common merit list as per vacancy and reservation roster. Out of this common merit list,



university wise merit list will be drawn with due consideration of the order of preference given by the Candidates.

9.2 If a candidate of reserved category becomes eligible for the merit list of unreserved category, his appointment will be made in the general category and such a candidate will be allotted a post against a vacancy of general category, with due consideration of the order of his preference for universities.

9.3 The candidate should mark order of preference for all the related universities.

.....

Chapter-4

4.0. Reservation

4.1 The current Reservation Policy of the State Govt. as applicable on the date of advertisement will strictly be followed category-wise and subject-wise as per the roster prepared by the university administration/state govt. If a candidate under reserved category qualifies in the general merit list he/she will be selected under general category.

Chapter-5

5.0 Selection Process

5.5 The Commission will prepare a composite merit list of the subjects on the basis of vacancies and reservation roster. Out of this composite merit list a University wise panel, with due consideration of preference of universities given by the candidates, will be prepared for onward transmission to the department/university.”



13. On perusal of Clause 4.1 of Chapter-4 of the Statutes of 2020, it is noticed that the current Reservation Policy of the State Government as applicable on the date of advertisement will strictly be followed category-wise and subject-wise as per the roster prepared by the university administration/state government. If a candidate from reserved category qualifies in the general merit list he/she will be selected under general category. Clause 5.5 of the Chapter-5 of the Statutes of 2020 provides that the Commission will prepare a composite merit list of the subjects on the basis of vacancies and reservation roster. Out of this composite merit list, a University wise panel with due regard to the preference of universities given by the candidates, will be prepared for onward transmission to the department/university.

14. In consonance with the aforesaid provisions of the statutes, in Clauses 9.1 and 9.2 of the Advertisement dated 21.09.2020, it has been provided that the Commission will prepare a subject-wise common merit-list as per vacancies and reservation roster. Out of this common merit-



list, university wise merit-list will be drawn with due consideration of the order of preference given by the Candidates. If a candidate of reserved category becomes eligible for the merit-list of unreserved category, his appointment will be made in the General category and such a candidate will be allotted a post against a vacancy of General category, with due regard to of the order of his preference for universities.

15. In the instant case, though the petitioner, who is a candidate belonging to EBC category and had given Patna University as first preference, was selected under unreserved category as the petitioner had become eligible for the merit-list of unreserved category because of his performance in the selection process and accordingly the petitioner's allotment of University was made under the unreserved category, hence the petitioner was allotted Tilka Majhi Bhagalpur University, Bhagalpur for appointment.

16. It appears that the petitioner could not be allotted Patna University, Patna for his appointment as it appears from the select-list dated 30.09.2022 that altogether three recommendations were made for appointment in the



Patna University in the select-list dated 30.09.2022 for the candidates belonging to EBC category and Schedules Caste category. Since the petitioner, though an EBC category candidate was selected in the unreserved category because of his performance in the selection process as per the provisions contained in Clause 4.1 of Chapter-4 of the Statutes of 2020 and Clause 9.2 of the Advertisement, the petitioner appears to have been allotted Tilka Majhi Bhagalpur University, Bhagalpur which is the second preference given by the petitioner wherein the post of Assistant Professor was meant for the unreserved category because the three posts advertised for Patna University was reserved for candidates of EBC & SC categories.

17. In view of the above, I find that the respondent authorities have acted in accordance with Clause 9 of the Advertisement dated 21.09.2020; Clause 4.1 of the Chapter 4 and Clause 5.5 of the Chapter 5 of the Statutes of 2020. Hence, no interference is called for on the action of the respondent authorities in the selection and appointment of the petitioner as Assistant Professor (Law) and his allotment of Tilka Majhi Bhagalpur University, Bhagalpur for his



posting as such.

18. Accordingly, the present writ petition stands dismissed.

(Nani Tagia, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.04.2025
Transmission Date	N/A

