

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.964 of 2022

Chhaya Chitra, Daughter of Narendra Kumar Singh, wife of Dr. Rajnish Kumar, Resident of Chooti Marai Dhanoti Pokhar, P.S. Hajipur Town, District Vaishali, presently resident of Village-Suryapura, P.O. Karjan, P.S. Athamalgola, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Health Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Deputy Secretary, Health Department, Bihar, Patna.
4. The Director-in-Chief, Health Services, Bihar, Patna.
5. The Civil Surgeon-cum-Chief Medical Officer, Vaishali, District-Vaishali.
6. The Incharge Medical Officer Primary Health Centre, Bidupur, Dist. Vaishali.
7. The Chairman, Bihar Technical Service Commission, Patna.
8. The Secretary, Bihar Technical Service Commission, Patna.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Vasant Vikas, Advocate
For the State	:	Mr. S. D. Yadav, AAG-9
		Mr. Anil Kr. Verma, AC to AAG-9
For the B.T.S.C.	:	Mr. Nikesh Kumar, Advocate
		Mr. Bijay Choubey, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date : 18-06-2026

Heard learned counsel for the petitioner, learned counsel for the Bihar Technical Service Commission (herein after referred to as ‘the Commission’) and learned counsel for the State of Bihar.

2. The petitioner has filed the instant application for the following reliefs :-



“(A) For the issuance of an appropriate writ/writs in nature of certiorari for quashing the ex-parte order contained in Memo No. 16326/Health dated 30.11.2021 issued by the Deputy Secretary, Health Department, Bihar, Patna whereby and whereunder the petitioner dismissed from Service from the post of General Medical Officer without giving any opportunity to the petitioner which is contrary to the settled principle of natural justice and rule and regulation prescribed under Service law.

(B) For necessary direction upon the respondents to reinstate the Service of petitioner as General Medical Officer with all consequential benefit attached to said post and

(C) For any other relief/reliefs for which the petitioner is found to be entitled as per facts and circumstances of the case.”

3. The case of the petitioner in brief is that on the respondents coming out with Advertisement no.17 of 2021 for appointment of General Medical Officer against a total of 2632 vacant posts under the Bihar Health Services, the petitioner being eligible in all respects applied for appointment. Her name was recommended by the Commission for appointment on 23.8.2021. The respondent-State of Bihar came out with a letter of appointment dated 2.9.2021 (Annexure-4) wherein the name of the petitioner figured at serial no.425 and she was posted as a doctor in Additional Primary Health Centre, Dhabauli, block-



Bidupur in the district of Vaishali.

4. The petitioner was surprised on the respondents coming out with an order dated 30.11.2021 issued under the signature of the Deputy Secretary, Health Department, Government of Bihar cancelling the appointment of the petitioner and five others. As such the instant writ application.

5. It is submitted by learned counsel for the petitioner that it is not in dispute that the petitioner was appointed as a doctor on 2.9.2021. The order impugned dated 30.11.2021 was issued by the respondents without having issued any show-cause notice to the petitioner and without giving any opportunity to the petitioner to respond to the same. There is clear violation of the principles of natural justice and as such the order impugned be set aside and the writ application be allowed.

6. The application is opposed by learned counsel appearing for the Commission. It is submitted that pursuant to the Advertisement no.17 of 2021, the Commission having made recommendation on 23.8.2021, on the very next day i.e. 24.8.2021, a number of objections were received by the Commission with respect to error having been committed in preparation of the results.

7. It is submitted that on examining the



results/recommendation made it transpired that the names as also the marks of a number of candidates who should have figured in the final results were left out. As such, the Commission wrote to the Health Department on 26.8.2021 itself to hold up the appointments and not to proceed with issuance of letter of appointment.

8. It is further submitted by learned counsel for the Commission that the clerical error committed in not including the marks obtained by a number of candidates was rectified and as a result of the same, the cut-off marks for the EWS category to which the petitioner belongs rose above the marks obtained by the petitioner. As such she was not finally recommended by the Commission and which has lead to the respondents cancelling her appointment.

9. Learned counsel appearing for the State of Bihar submitted that the letter of appointment was issued pursuant to the recommendation made by the Commission. However various provisions in the notification of appointment dated 2.9.2021 (Annexure-4) would show that firstly, the same was provisional and on various grounds as mentioned in Clause-2 & 8 of the same including any clerical error being committed, it clearly mentioned that the appointment/selection of the



petitioner can be cancelled without any prior notice.

10. Heard learned counsel for the petitioner and learned counsel for the respondents. Perused the material on record.

11. Bereft of unnecessary details, it may be mentioned here that the petitioner who applied for appointment as a General Medical Officer in the EWS category against Advertisement no.17 of 2021 issued by the Bihar Technical Service Commission, Patna, came to be selected and the Bihar Technical Service Commission recommended for the petitioner's appointment to the Health Department, Government of Bihar vide letter contained in Memo no.1190(2) Health, Patna dated 2.9.2021. The petitioner was appointed as a General Medical Officer and posted at Additional Primary Health Centre, Dhabauli, Bidupur in the district of Vaishali.

12. It transpires from the material on record that a number of objections were received by the Health Department, Government of Bihar which were to the effect that their merit point was above the cut-off marks in different categories but they had not been recommended. Accordingly, a Committee was constituted and the Commission enquired into all the objections received. It transpired that 24 candidates who had not been



recommended had secured more merit points (marks) than the declared cut-off marks in different categories.

13. In view of the above, the Commission decided to rectify the final result of Advertisement no.17 of 2021 and in that process, the cut-off marks of different categories were revised.

14. So far as the EWS category to which the petitioner belongs is concerned, the cut-off marks was revised/enhanced from 35.093 to 35.926. The petitioner who had secured merit point of 35.4612 and had been recommended/appointed, on account of the cut-off marks having been revised to 35.926, could not be recommended/appointed in the revised recommendation of the Commission.

15. It would be relevant to point out here that even in the notification of appointment dated 2.9.2021 (Annexure-4) wherein the name of the petitioner figures at serial no.425, it was clearly mentioned therein in Clause 2 & 8 that the recommendation was being made *prima facie* accepting the details to be correct. In case any adverse report is received or it transpires that any clerical error has occurred, the recommendation/appointment of the candidates can be cancelled without any prior intimation. Thus the appointment was still not



final.

16. Taking the above facts into consideration, the petitioner having obtained 35.4612 marks in her EWS category had been appointed on account of the cut-off for the said category being 35.093. On the error committed being discovered by the Commission and the cut-off for the said category having been revised to 35.926 merit points, the petitioner did not make the cut-off marks and the appointment was rightly cancelled.

17. In view of the facts and circumstances of the case, the Court finds no error in the order dated 30.11.2021 passed by the Deputy Secretary, Health Department, Government of Bihar and no merit in the instant writ application.

18. The application is dismissed.

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	09.04.2026
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