

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4414 of 2024

Dr. Gangadhar Giri son of Paras Nath Giri, resident of Mashrak, Purab Tola,
Mashrak, P.O. and P.S.-Mashrak, District-Chapra at Saran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The State of Bihar through the Additional Chief Secretary, Health Department, Government of Bihar, Patna.
3. The Bihar Technical Service Commission, 19, Harding Rd, Rajbansi Nagar, Patna, Bihar 800001.
4. The Chairman, Bihar Technical Service Commission, 19, Harding Rd, Rajbansi Nagar, Patna, Bihar 800001.
5. The Secretary, Bihar Technical Service Commission, 19, Harding Rd, Rajbansi Nagar, Patna, Bihar 800001.
6. The Deputy Secretary, Bihar Technical Service Commission, 19, Harding Rd, Rajbansi Nagar, Patna, Bihar 800001.
7. Laxmi Narayan Kumar, son of Ram Brichh Chaudhary, through Bihar Technical Service Commission bearing registration No. BR00150220002062.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Lalit Kishore, Sr. Advocate Mr. Mohit Shriwastwa, Advocate Mr. Ayush Kumar, Advocate Mr. Kanishka Shankar, Advocate Mr. Sanjeev Kumar, Advocate
For the State	:	Mr. Sanjay Prasad (AC to AAG-4)
For the BTSC	:	Mr. Nikesh Kumar, Advocate Mr. Akshansh Shanker, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 10-02-2026

Heard learned Senior counsel for the petitioner,
learned counsel for the State and learned counsel for the Bihar
Technical Service Commission.

2. The present writ petition has been filed for the
following relief/s:-

*“I. To issue an appropriate writ,
order, direction in the nature of*



mandamus commanding the respondent Bihar Technical Service Commission to treat the petitioner's candidature in the category of Backward Class of "Goswami/Gosai" instead of General Category Candidate against advertisement no. 4/2020 to 09/2020 dated 28.09.2020 for the post of Ayurvedic Medical Officer.

II. To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondents to amend / revise the result bearing no. 462 dated 21.02.2024 to the extent of including the name of the petitioner under the Backward Class Category and consequent removal of the last meritorious candidate under the Backward Class Category, if required, for the post of Ayurvedic Medical Officer.

III. To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondents to appoint the petitioner on the post of Ayurvedic Medical Officer on the basis of marks obtained by the petitioner and



eligible for the under the Backward Class Category.

IV. To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondents to keep one post vacant under Backward Class Category against the post of Ayurvedic Medical Officer.

V. To any other reliefs for which the petitioner appears to be found entitled by the Hon'ble Court.”

3. Learned Senior counsel for the petitioner submits that the petitioner is presently working on the post of Ayurvedic Medical Officer on contractual basis and he was appointed *vide* Memo No. 392 dated 29.05.2015 in the office of District Health Society, Supaul and presently posted at Referral Hospital, Raghapur Block, Supaul. Senior counsel submits that the Bihar Technical Service Commission published an advertisement bearing no.4/2020 to 9/2020 dated 28.09.2020 for appointment for different posts including Ayurvedic Medical Officer (serial no.1 of the advertisement). In the said advertisement, the guidelines in relation to reservation were stipulated in Para 5. The last date for submission of online application form was specified as 28.10.2020. Senior counsel submits that an



experience certificate was issued in favour of the petitioner by the concerned civil surgeon. He further submits that in pursuant to the said advertisement, the petitioner applied against the post of Ayurvedic Medical Officer by way of an online application form on 17.10.2020. In the said application form, due to mistake under the reservation category, instead of selecting Backward Class (BC) category, Extremely Backward Class (EBC) category was selected. However, being from the BC category, the non-creamy layer certificate of BC category was enclosed. Senior counsel submits that the respondent Commission published the notice on 01.02.2022, by which the guidelines for conducting counseling was issued along with the list of candidates who were called for counseling by the Commission in terms of the application form. The petitioner's name was figured at Serial no.568. He further submits that point no.6 of the guidelines mentioned that the Commission was free to take a decision on the candidatures where the instruction has not been followed by the candidates. Similarly, point no.14 of the guidelines specifies that any information published by the Commission on its website will be followed by the candidates and no separate information would be given to the candidates. Senior counsel further submits that the petitioner appeared on



09.02.2022 before the Commission along with all the documents and participated in the counseling. Further, during the counseling, no objection of any kind was raised by the Commission regarding the petitioner. Thereafter, the respondent Commission published the final merit list *vide* Letter No. 462 dated 21.02.2024, in which the petitioner was not declared as a successful candidate, in spite of the fact that the petitioner secured 62.0486 marks which is more than the cut-off marks of BC category fixed by the Commission as 57.6727. It is also evident that the candidature of the petitioner was considered under the general category by the respondent Commission in place of BC category. Senior counsel submits that the action of the respondent Commission is completely arbitrary and illegal and the petitioner had furnished all the details and clarified the fact that by mistake in place of BC category, he had applied under EBC category, and the said mistake was not permitted to be rectified. It is due to this reason, the petitioner has filed the present writ petition.

4. Learned Senior counsel for the petitioner further submits that it is true that Clause 5(iv) of the advertisement states that upon being satisfied that the candidate belongs to which category, the form has to be fulfilled and if it is found that



any defect is there, then the claim of reservation shall not be accepted. Senior counsel submits in this regard that the application form contains the application and the certificate. He submits that the certificate attached with the application form was of BC category, but due to inadvertent mistake, the clicking made at the time of filing of the application form has been indicated as EBC category. Senior counsel specifically submits that changing of category is not permissible according to the clause 5(iv) of the advertisement. But, he submits that it is not the change of category, rather, it is a mistake. He submits that clause 5 of the advertisement shall not apply in the present case. In support of his argument, Senior counsel submits that the said post on which the petitioner has applied, are still vacant and according to him, about 300 posts are still there. So, by virtue of allowing the present writ application and directing the respondent Commission to remove this mistake, no violation of any terms of the advertisement shall be made.

5. In support of his argument, learned Senior counsel for the petitioner relied on the judgment in case of ***Vashist Narayan Kumar Vs. The State of Bihar & Ors.*** reported in ***(2024) 11 SCC 785***. He submits that as per the said judgment, it has been categorically acknowledged by the



Hon'ble Supreme Court that the mistake which has been taken place in the date of birth which has been wrongly typed as 08.12.1997 instead of 18.12.1997 in the educational certificate, shall neither be treated as any material discrepancy nor any suppression or misrepresentation. After a candidate has participated in the selection process and cleared all the stages successfully, his candidature can only be cancelled after careful scrutiny of gravity of lapse and not for trivial omissions or errors. He submits that here in the present case also, the certificate attached is basically the correct certificate of the BC category. But, only in the application form, in place of BC category, EBC category has been clicked/selected and therefore, he submits that such mistake may be taken as a trivial omission or error, as observed by the Hon'ble Supreme Court of India in the said judgment.

6. Learned counsel appearing for the Bihar Technical Service Commission, on the other hand, submits that the appointment has to be made following the advertisement. Counsel submits that the advertisement, particularly it's Clause 5(iv), 5(viii) and 14 clearly indicates that if, there shall be any wrong either in the application form or in the certificate, shall not be ignored and the candidate himself shall be responsible for



such incorrect information. He submits that in the application form, petitioner has filled up EBC category and subsequently in the writ petition he is demanding relief by virtue of BC category, meaning thereby that, he wants to change the category of reservation, whether by mistake or intentional, and the advertisement has basically restricted in this regard not only at one place, rather, at three places.

7. In support of his argument, learned counsel for Bihar Technical Service Commission relied on the judgment of the Co-ordinate Bench of this Hon'ble Court in case of ***Chandni Kumari Vs. The Bihar Technical Service Commission & Ors.***, order dated **04.08.2025** passed in ***C.W.J.C. No. 11355 of 2025***, where the mistake taken place at the time of filing of application form online that, in place of EBC category, the same was filled up as BC category. And, in the said case, no modification/correction was allowed and the petitioner has been treated as general category. In the said case, the Co-ordinate Bench of this Hon'ble Court quoted Clause 14 of the advertisement and made observation in para 8 of the said judgment and dismissed the said writ petition itself.

8. Learned counsel appearing for Bihar Technical Service Commission relied on another judgment rendered by the



Hon'ble Supreme Court of India in case of ***Bedanga Talukdar Vs. Saifudaullah Khan & Ors.*** reported in ***(2011) 12 SCC 85***, wherein, it was held that the selection process has to be conducted strictly in accordance with stipulated selection procedure when a particular schedule is mentioned in the advertisement, the same has to be followed strictly and there cannot be any relaxation in terms and conditions of the advertisement unless such a power is specified/reserved. Counsel further submits that the process of selection has already been ended and the name of selected candidates has already been referred to the government and the selected candidates have joined their post. He submits that there were not a single person who has committed such mistake, rather, a series of candidates have committed such mistake. And if, this case shall be construed liberally, the demand of equal opportunity has to be applied and in this way, an adverse situation shall be created. Counsel, therefore, submits that since, the case of the petitioner has to be followed strictly in accordance with the advertisement, as such, there is no scope for the petitioner in the light of the advertisement as well as in the light of the judgments rendered by the Co-ordinate Bench of this Hon'ble Court as well as by the Hon'ble Supreme Court of India mentioned above.



9. In the light of the submissions made and after hearing the learned Senior counsel for the petitioner and learned counsel for the Bihar Technical Service Commission as well as considering the documents, it transpires to this Court that for the purpose of deciding this case, it is necessary to quote the relevant provisions which alleged to have been violated i.e. Clause 5(iv), 5(viii) and 14 of the advertisement which reads as under:-

“5(iv). आरक्षित कोटि के उम्मीदवार अपनी जाति के अनुरूप आरक्षण के संबंध में पूर्ण रूप से संतुष्ट होने के पश्चात् ही आरक्षण का अंकण आवेदन के संबंधित कॉलम में करेंगे एवं आवेदन भरते समय उनके पास आरक्षण कोटि के अनुरूप सक्षम प्राधिकार से निर्गत प्रमाण-पत्र उपलब्ध होना अनिवार्य होगा। किसी प्रकार की त्रुटि होने पर आरक्षण का दावा मान्य नहीं होगा।

5(viii). सामान्य प्रभासन विभाग के ज्ञापक-16144, दिनांक 28.11.2012 के आलोक में नियुक्ति प्रक्रिया के बीच आरक्षण कोटि में सुधार/बदलाव नहीं किया जा सकता है।

14. आवेदक द्वारा ऑनलाईन आवेदन में सभी प्रविष्टियाँ सावधानी से भरी जायेगी। भविष्य में आवेदन में किसी प्रकार का परिवर्तन / सुधार मान्य नहीं होगा। किसी



भी प्रकार की त्रुटि हेतु आयोग उत्तरदायी नहीं होगा एवं कोई भी प्रतिकूल परिणाम हेतु आवेदक स्वयं जिम्मेवार होंगे।”

10. From the records and arguments, it is also crystal clear that at the time of filing up the application form, the petitioner has applied/selected his category under EBC, due to which his result could not be published and he has been treated as general category in spite of fact that he has got more marks than the cut-off fixed towards his category. On the other hand, it is also true that he has filed up the application form under EBC category but, attached/uploaded the form under BC category, which is correct as per the argument of learned Senior counsel for the petitioner.

11. Now, the question is that if the judgments of *Vashist Narayan Kumar (supra)*, *Chandni Kumari (supra)* and *Bedanga Talukdar (supra)* shall help the petitioner in any manner or not.

11.1. The case of *Vashist Narayan Kumar (supra)* decided by the Hon'ble Supreme Court of India is relating to wrong entry made in the date of birth as 08.12.1997 instead of 18.12.1997, and the Hon'ble Supreme Court has pleased to observed that such mistake in the application form with regard



to date of birth is basically a trivial omission or error, therefore, may be ratified.

11.2. But, in case of ***Chandni Kumari (supra)***, the entry made in the application form has been made as BC category in place of EBC category and the Clause 14 of the advertisement is very categorical that all the entries in the online application form shall be made with due precaution and in future, any change shall not be accepted, and for the effect of such wrong, it is the candidate who shall be held responsible and not the respondent Commission.

11.3. Similarly, in case of ***Bedanga Talukdar (supra)***, it has been observed by the Hon'ble Supreme Court of India that the selection process has to be conducted strictly in accordance with the stipulated selection procedure when a particular schedule is mentioned in the advertisement, the same has to be scrupulously maintained and there cannot be any relaxation in terms and conditions of the advertisement unless such a power is specifically reserved. And such a power could be reserved in the relevant statutory rule.

12. It is relevant to quote para 29 of ***Bedanga Talukdar (supra)*** case which reads as under:-

“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.”

13. It is also relevant to quote para 8, 9 & 12 of ***Chandni Kumari (supra)*** case which reads as under:-

“8. On careful consideration of the submissions advanced at the Bar by the learned Advocate for the respective parties, it is pertinent to observe that the terms of advertisement underlying therein mandatorily required to be followed, unless there is a provision of relaxation for the same. Clause 5 of the Advertisement No. 7/2022 deals with reservation and note (c) thereof makes it clear that before making claim of reservation, a candidate must get satisfied. Once the registration shall be made in terms with the advertisement, no modification/correction shall be allowed and in case of any mistake,



the claim of reservation shall not be admissible and thus the candidate shall be treated as an unreserved candidate. The identical prescription has been provided under Clause 14 of the Advertisement, which reads hereunder:

“14- आवेदक द्वारा ऑनलाईन आवेदन में सभी प्रविष्टियाँ सावधानी से भरी जायेगी। भविष्य में आवेदन में किसी प्रकार का परिवर्तन/सुधार मान्य नहीं होगा। किसी भी प्रकार की त्रुटि हेतु आयोग उत्तरदायी नहीं होगा एवं कोई भी प्रतिकूल परिणाम हेतु आवेदक स्वयं जिम्मेवार होंगे।”

9. Further the important letter no. 612 dated 03.03.2023 made it clear that scrutiny of all the Online applications was made in terms with the conditions of the advertisement and before scrutiny a category-wise merit list was prepared based upon the claim of the candidates in their applications. The said letter specifically cautioned that a candidate before filing objection must understand the following directions, inter alia, that the candidate, who failed to produce the relevant



certificate, as claimed in her application submitted through Online, she would not get the benefit of reservation. The letter specifically qualified under Clause 8 thereof that the request for change of category shall not be entertained on account of the reasons enumerated therein. The important notice in the opinion of this Court clearly excludes consideration of any objection regarding change of the category.

12. In the opinion of this Court, the terms and conditions of any advertisement are meant to be strictly followed by all the concerns, any deviation thereof may lead to consequences as mentioned therein. In the case in hand, it is made clear through the specific prescription of the advertisement and the important notice that besides some trifling errors, the candidate(s) would not be allowed to change the category and other remaining errors once Online application is duly submitted. There was a clear stipulation that benefit of reservation would not be extended to the candidate, in case of unavailability of certificate(s) of the



category claimed for in the Online application.”

14. Upon the basis of the discussions made, it transpires to this Court that the petitioner has not filled up his application form in the light of advertisement and granting relaxation to the petitioner in the present case shall definitely create a problem in future, as, such type of mistake shall open a Pandora box for the Commission and a fresh litigation will be started.

15. Therefore, this Court is of the firm view that the application of the petitioner was not filled up as per Clause 5(iv), 5(viii) and 14 of the advertisement and in the light of judgments rendered in case of *Chandni Kumari (supra) & Bedanga Talukdar (supra)* mentioned above, such change shall not be permissible. Hence, this writ petition stands dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
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