

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6378 of 2025

1. Prakash Kumar S/O- Niwas Pandit, Resident of Village- Khirnia, P.O.- Balha Bazar, P.S.- Mansi, District- Khagaria.
2. Dharmendra Kumar Dhiraj S/O- Lakshmi Narayan Singh Resident of Village- Neyamatpur Tola Banwariganj, P.O.- Patharktti, P.S.- Sarbahda, District- Gaya.
3. Sanjeev Kumar, S/O- Shambhu Yadav Resident of Village- Shivnagar Parria Ward no-2, P.O.- Rampatti, P.S.- Kumarkhand, District- Madhepura.
4. Om Prakash Pandey S/O- Bhola Nath Pandey Resident of Village and P.O.- Bihta, P.S.- Bihta, District- Patna.
5. Srikanti Kumari, D/O- Bhaiyaram Singh Resident of Village-P.O.- Kellar, P.S.- Kellar, District- Arwal.
6. Preeti Kumari D/O- Kishor Kumar Resident of Village- Matadih Chowk, P.O.- Jamalpur, P.S.- Dharahara, District- Munger.
7. Arvind Kumar S/O- Bhupendra Yadav Resident of Village- Bancholaha, P.O.- Khajuri, P.S.- Sourbazar, District- Saharsa.
8. Tripti Kumari D/O- Subhash Chandra Sah, Resident of Village- Arya Nagar Hat, P.O.- Kasba, P.S.- Kasba, District- Purnea.
9. Ravi Prakash Pandey S/O- Satya Narayan Pandey, Resident of Village-P.O.- Banuchhapar, P.S.- Banuchhapar, District- West Champaran.
10. Suman Kumar S/O- Shyam Sundar P.O.tdar, Resident of Village- Station Road, Gudri Bazar, P.O.- Kasba, P.S.- Kasba, District- Purnia.
11. Md Wahabuddin S/O- Md Bashiruddin Resident of Village- Dadhi Badhi, P.O.- Baniyarpur, P.S.- Baniyarpur, District- Saran.
12. Sushant Kumar S/O- Arun Kumar Chaudhary Resident of Village-P.O.- Bijhrauli, P.S.- Tisiauta, District- Vaishali.
13. Mukund Madhav, S/O- Shakti Nandan Kumar Resident of Village- Shambhunathpur Dholi, P.O.- T.C.A Dholi, P.S.-Sakra, District- Muzaffarpur.
14. Manish Kumar S/O- Anil Ray Resident of Village- Mattunaroi, P.O.- Sanha, P.S.- Sahebpur Kamal, District- Begusarai.
15. Chintu Kumar Paswan S/O- Bangali Paswan Resident of Village- Tikuli, P.O.-Chakand, P.S.- Belaganj, District- Gaya.
16. Deepak Kumar S/O- Shiv Shankar Singh Resident of Village- Purani Shahar Barbiga, P.O.- Barbiga, P.S.- Barbiga, District- Sheikhpura.
17. Deepak Kumar S/O- Satyendra Prasad Resident of Village-P.O.- Aima Chauki, P.S.- Khizersarai, District- Gaya.
18. Sudhanshu Raj, S/O-Kishori Mohan Prasad Address - Vill and P.O. and P.S. - Pakri Barawan, District-Nawada, 805124.
19. Nitish Kumar, S/O- Mahendra Prasad Singh, Resident of Village- Jhikuli, P.O.- Sangrampur P.S.- Sangrampur, District- Munger.
20. Amisha Kumari , D/O- Shailendra Prasad, Resident of Village- Mai, P.O.-



Parwalpur, P.S.- Parwalpur, District-Nalanda

21. Jamil Ansari S/O- Salauddin Ansari Resident of Village- Arsi Kala, P.O.- Dubba, P.S.- Gurua, District-Gaya.
22. Suruchi Kumari, D/O- Bhola Prasad Keshri, Resident of Village and P.O.- Balthari, P.S.- Kochas, District- Rohtas.
23. Ankit Kumar Suman S/O- Shyamsundar Prasad Yadav, Resident of Village- Rampur, P.O.- Jamdaha, P.S.- Katoriya District- Banka.
24. Binod Yadav S/O- Sakun Yadav Resident of Village- Koriya, P.O.- Lohari, P.S.- Chandan, District- Banka.
25. Shesh Nath Sah S/O- Ramayan Sah Resident of Village- Sirisiya Babutola, P.O.- Sasamusa, P.S.- Kuchaiot, District- Gopalganj.
26. Priyanshu Kumar, S/O- Shashi Bhushan Prasad Resident of Village and P.O.- Hathwan, P.S.- Alauli, District- Khagaria.
27. Sushil Kumar S/O- Brahmadeo Yadav Resident of Village- Kadhैया, P.O.- Kachra, P.S.- Saurbazar, District- Saharsa.
28. Ranjan Kumar S/O- Kailash Yadav Resident of Village- Karma Masud, P.O.- Rafiganj, P.S.- Rafiganj, District- Aurangabad.
29. Ashish Kumar, S/O- Kamlesh Sah Resident of Village- Dahala, P.O.- Durgawati, P.S.- Durgawati, District- Kaimur.
30. Abdul Rasid, S/O- Md Abuzar Resident of Village- Shivnagar Harishpur, P.O.- Dighree, P.S.- Rautara, District- Katihar.
31. Mahesh Kumar Sah S/O- Ram Babu Sah Resident of Village-P.O.- Bandra, P.S.- Piar, District- Muzaffarpur.
32. Anju Kumari D/O- Surendra Chaudhary Resident of Village- Dighi, P.O.- Bathnaha, P.S.- Bathnaha, District- Sitamarhi.
33. Anil Kumar Yadav S/O- Gorakh Nath Yadav Resident of Village- Chhotka Manjha Dakshintola, P.O.- Chhotka Manjha, P.S.- Mairwa, District- Siwan.
34. Jitendra Kumar S/O- Yugal yadav Resident of Village- Siraiya, P.O.- Sahebpur Kamal, P.S.- Sahebpur Kamal, District- Begusarai.
35. Kundan Kumar Singh S/O- Gajadhar Prasad Singh Resident of Village-P.O.- Pasraha, P.S.- Pasraha, District- Khagaria.
36. Raju Kumar S/O- Sukhdeo Prasad Yadav Resident of Village- Chiraiyantard, P.O.- Rampur, P.S.- Rampur, District- Gaya.
37. Sudhir Kumar, S/O- Nawal Kishor Singh Resident of Village- Gauchari, P.O.- Purainia, P.S.- Balthar, District- West Champaran.
38. Mantu Kumar Ram S/O- Sudarshan Ram, Resident of Village- Mendaripur, P.O.- Silari, P.S.- Karghar, District- Rohtas.
39. Sintu Kumar S/O- Janardan Prasad Yadav, Resident of Village- Belahi Ward No-7, P.O.- Makuna, P.S.- Bihra, District- Saharsa.
40. Sanoj Kumar pandit, S/O- Jalo pandit, Resident of Village-Kharik Purvi Gharari, P.O.- Kharik Bazar, P.S.- Kharik, District- Bhagalpur.
41. Manprit Kumari D/O- Tribhuvan Roy Resident of Village- Dhangama Ward No.-03, P.O.- Rautara, P.S.- Ranipatra, District- Purnia.



42. Anurag Kumar, S/O- Amresh Singh Resident of Village - P.O.- Singari, P.S.- Garhwa, District- Pashchim Champaran.
43. Alpna Kumari D/O- Nalini Kumar Das Resident of Village-P.O.- Telta, P.S.- Balrampur, District- Katihar.
44. Munna Kumar S/O- Kaleshwar Mandal Resident of Village- Kala Tola, P.O.- Bariyarpur, P.S.- Bariyarpur, District- Munger.
45. Asmeena Khatoon D/O- Mustafa Resident of Village- Chapakhori, P.O.- Hat Balrampur, P.S.- Abadpur, District- Katihar.
46. Sunil Kumar S/O- Ram Prawesh Prasad Resident of Village- Pathra, P.O.- Manjhagarh, P.S.- Manjhagarh, District- Gopalganj.
47. Prabhash Kumar Son of Manbodh Prasad Yadav Resident of Village- Parihari, P.O.- Shripur Millik, P.S.- Kumarkhand, District- Madhepura.
48. Md Jahangir Alam S/O- Md Mojib Resident of Village- Kochka, P.O.- Machhatta, P.S.- Amour, District- Purnia.
49. Manish Kumar Singh S/O- Dinesh Singh Resident of Village-P.O.- Pachgachia, P.S.- Gopalpur, District- Bhagalpur.
50. Chandan Kumar S/O- Wakil Yadav Resident of Village- Chorakol, P.O.- Domuhan, P.S.- Banka, District- Banka.
51. Manilal Kumar S/O- Babujan Mahto Resident of Village- Mirzapur, P.O.- Hussaina, P.S.- Ballia, District- Begusarai.
52. Vikash Kumar, S/O- Jagdam Mistri Resident of Village- Lahangpur, P.O.- Lakhaipur, P.S.- Mohanpur, District- Gaya.
53. Uday Kumar S/O- Sahdeo Ray Resident of Village- Rukmanjri, P.O.- Rusulpur Korigawn, P.S.- Goraul, District- Vaishali.
54. Om Prakash Kumar son of Chandrama Roy Resident of Village-Mahana, Post- Saghat Sultanpur, Bansohi, P.S.-Bhagwanpur Hatt, District-Siwan
55. Md. Meraz son of Md. Zakir Resident of Village - Loam, Post- Loam P.S.- Sadar, District-Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Old Secretariat, Bailey Road, Patna-800015.
2. The Secretary, Education Department, Old Secretariat, Bailey Road, Patna-800015.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Director, Secondary Education, Education Department, Old Secretariat, Bailey Road, Patna-800015.
5. The Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
6. The Chairman, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.



7. The Secretary, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
8. The Joint Secretary -cum- Examination Controller, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna.
9. Sushil Yadav son of not know bearing Roll no. 743374 under OH category (UP) through the Bihar Public Service Commission.
10. Mohd. Asim son of not know bearing Roll no. 743397 under OH category (UP) through the Bihar Public Service Commission
11. Saloni Gupta daughter of not know bearing Roll no. 743408 under OH category (UP) through the Bihar Public Service Commission.
12. Vikash Kumar son of not know bearing Roll no. 743421 under OH category (UP) through the Bihar Public Service Commission
13. Jitendra Kumar Sahni son of not know bearing Roll no. 743427 under OH category (UP) through the Bihar Public Service Commission.
14. Ajeet Singh, son of not know, bearing Roll no. 743452 under OH category (UP) through the Bihar Public Service Commission.
15. Raghvendra Mishra son of not know bearing Roll no. 743460 under OH category (UP) through the Bihar Public Service Commission.
16. Satyendra Kumar Tripathi son of not know bearing Roll no. 743471 under OH category (UP) through the Bihar Public Service Commission.
17. Lalit Mohan Sonkar son of not know bearing Roll no. 743476 under OH category (UP) through the Bihar Public Service Commission
18. Santosh Kumar son of not know bearing Roll no. 798530 under OH category (UP) through the Bihar Public Service Commission.
19. Pradeep Pal son of not know bearing Roll no. 798588 under OH category (UP) through the Bihar Public Service Commission
20. Rajneesh Kumar son of not know bearing Roll no. 798604 under OH category (UP) through the Bihar Public Service Commission.
21. Vinay Tiwari son of not know bearing Roll no. 798624 under OH category (UP) through the Bihar Public Service Commission
22. Gulshan Kumar, son of not know, bearing Roll no. 798636 under OH category (UP) through the Bihar Public Service Commission.
23. Jeetesh Kumar son of not know, bearing Roll no. 798655 under OH category (UP) through the Bihar Public Service Commission.
24. Sandhya Devi daughter of not know bearing Roll no. 798658 under OH category (UP) through the Bihar Public Service Commission.
25. Sarva Jeet Kumar son of not know bearing Roll no. 825741 under OH category (UP) through the Bihar Public Service Commission.
26. Ankula Singh daughter of not know bearing Roll no. 825749 under OH category (UP) through the Bihar Public Service Commission.
27. Rahul, son of not know bearing Roll no. 825753 under OH category (UP) through the Bihar Public Service Commission.
28. Dalchand Singh son of not know bearing Roll no. 825754 under OH



category (UP) through the Bihar Public Service Commission.

29. Anupam Yadav son of not know, bearing Roll no. 825781 under OH category (UP) through the Bihar Public Service Commission.
30. Ram Pratap Singh son of not know bearing Roll no. 825789 under OH category (UP) through the Bihar Public Service Commission.
31. Ambesh Kumar son of not know bearing Roll no. 825794 under OH category (UP) through the Bihar Public Service Commission.
32. Manish Rai, son of not know bearing Roll no. 825801 under OH category (UP) through the Bihar Public Service Commission.
33. Deepak Kumar Pal, son of not know bearing Roll no. 825829 under OH category (UP) through the Bihar Public Service Commission.
34. Bhanu Pratap son of not know bearing Roll no. 825850 under OH category (UP) through the Bihar Public Service Commission.
35. Ajeet Kumar son of not know bearing Roll no. 825884 under OH category (UP) through the Bihar Public Service Commission.
36. Dharmoo Prajapati son of not know bearing Roll no. 825892 under OH category (UP) through the Bihar Public Service Commission.
37. Yogesh Kumar, son of not know bearing Roll no. 825895 under OH category (UP) through the Bihar Public Service Commission.
38. Kamalkant son of not know bearing Roll no. 827251 under OH category (UP) through the Bihar Public Service Commission.
39. Neetu, daughter of not know, bearing Roll no. 827251 under OH category (UP) through the Bihar Public Service Commission.
40. Jai Kishor son of not know bearing Roll no. 827324 under OH category (UP) through the Bihar Public Service Commission.
41. Afaq Ahmad son of not know bearing Roll no. 835715 under OH category (UP) through the Bihar Public Service Commission.
42. Vinod Kumar Yadav son of not know bearing Roll no. 835781 under OH category (UP) through the Bihar Public Service Commission.
43. Prem Ji Dwivedi, son of not know, bearing Roll no. 835798 under OH category (UP) through the Bihar Public Service Commission.
44. Ramesh Chandra son of not know bearing Roll no. 835803 under OH category (UP) through the Bihar Public Service Commission.
45. Pushpendra Kumar son of not know bearing Roll no. 835811 under OH category (UP) through the Bihar Public Service Commission.
46. Nagendra Singh, son of not know, bearing Roll no. 835827 under OH category (UP) through the Bihar Public Service Commission.
47. Ram Sharan Saroj, son of not know, bearing Roll no. 835840 under OH category (UP) through the Bihar Public Service Commission.
48. Tiwari Kumari Priyanka Kashinath, daughter of not know, bearing Roll no. 835863 under OH category (UP) through the Bihar Public Service Commission.
49. Basudev, son of not know, bearing Roll no. 836744 under OH category (MP)



through the Bihar Public Service Commission.

50. Rohit Kumar, son of not know, bearing Roll no. 836745 under OH category (UP) through the Bihar Public Service Commission.
51. Rajesh Kumar Yadav, son of not know, bearing Roll no. 836834 under OH category (MP) through the Bihar Public Service Commission.
52. Raghbendra Singh Bhadoriya son of not know bearing Roll no. 836847 under OH category (MP) through the Bihar Public Service Commission.
53. Ghanshyam Sharma son of not know bearing Roll no. 836855 under OH category (MP) through the Bihar Public Service Commission.
54. Mukesh Kumar Khokhar son of not know bearing Roll no. 836861 under OH category (Rajasthan) through the Bihar Public Service Commission.
55. Kanhaia Lal Shaw, son of not know, bearing Roll no. 836906 under OH category (WB) through the Bihar Public Service Commission.
56. Sonu Singh, son of not know, bearing Roll no. 836785 under DD category (Rajasthan) through the Bihar Public Service Commission.
57. Jeetendra Kumar, son of not know, bearing Roll no. 836875 under DD category (Rajasthan) through the Bihar Public Service Commission.
58. Mohammad Abbas, son of not know, bearing Roll no. 836886 under DD category (Delhi) through the Bihar Public Service Commission.
59. Neeraj Singh son of not know bearing Roll no. 539395 under VI category (UP) through the Bihar Public Service Commission.
60. Jitendra Kumar Singh son of not know bearing Roll no. 825847 under VI category (UP) through the Bihar Public Service Commission.
61. Rahul Kumar son of not know bearing Roll no. 836879 under VI category (UP) through the Bihar Public Service Commission.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Adv. Mr. Ashish Giri, Adv. Mr. Pranav Kumar, Adv. Ms. Shrishti Singh, Adv.
For the State	:	Mr. Mankeshwar Tiwari, AC to AAG 3
For the BPSC	:	Mr. Sanjay Pandey, Adv. Mr. Nishant Kumar Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 27-01-2026

Heard Mr. Y.V. Giri, learned Senior Advocate with Mr.

Pranav Kumar, learned Advocate for the petitioners, Mr. Sanjay

Pandey, learned Advocate for the Bihar Public Service



Commission and learned Advocate for the State.

2. This Batch of the writ petitioners are unsuccessful candidates under the disabled quota in connection with Advertisement No. 22/2024; who are seeking following reliefs:-

“(i) To issue an appropriate writ, order, direction in the nature certiorari for quashing the part of final result dated 15.11.20 of TRE-III published by the respondent Bihar Public Servi Commission through advertisement no. 22/2024 with respect the disabled quota candidates of OH (Orthopaedic), VI (Visuall impaired) & DD (Deaf & Dumb) for appointment to the post Teachers under all the categories (Annexure-P/5, Pg125).

(ii) To issue an appropriate writ, order, direction in the nature mandamus commanding the respondent Bihar Public Service Commission to publish a fresh result after giving the benefit reservation of disabled quota to the candidates belonging to the State of Bihar, and not to consider the candidature of disabled quota candidates from outside the state of Bihar be considered against unreserved category against advertisement no. 22/2024.

(iii) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondent Bihar Public Service Commission to grant benefit of disabled quota to the candidates belonging to the State of Bihar and not to the candidates who are not resident (domicile) of Bihar against advertisement no. 22/2024.

(iv) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondent Bihar Public Service Commission to publish a fresh result after strictly implementing



the procedure as prescribed in resolution no. 20150 dated 15.11.2022 and letter no. 2701 dated 13.02.2024 issued under the signature of the Additional Chief Secretary, General Administration Department in relation to allowing the benefit of disabled quota only to the candidates who are residents (domicile) of Bihar, and not to grant benefit of reservation to the candidate who are non-residents of Bihar under disabled quota (unreserved category) against advertisement no. 22/2024.

(v) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondent Bihar Public Service Commission to publish the result of disabled quota only with respect to the candidates who are the residents (domicile) of Bihar in terms of Bihar Reservation Act, 1991 and resolution 20150 dated 15.11.2022 and letter no. 2701 dated 13.02.2024 against advertisement no. 22/2024.

(vi) To any other reliefs for which the petitioners appear to be found entitled to the Ho'ble Court."

3. The petitioners, who belong to disabled quota having their domicile in the State of Bihar, after completing their training and possessing CTET and STET certificates, on being found eligible for appointment to the post of Primary, Secondary and Higher Secondary Teachers, applied in terms with the caption Advertisement No. 22/2024. Clause 6(iv)(A) of the Advertisement prescribes horizontal reservation to the disabled candidates in terms of notification No. 962 dated



22.01.2021 and Clause 6(vii) and its “Note” further states that only such disability certificate will be considered, which are issued by the Government Hospital of Bihar and in case document is found forged, the candidature will be cancelled. It further says that if the disability certificate is issued by the Civil Surgeon-cum-Chief Medical Officer, the candidature shall be deemed to be provisional and the candidates are mandatorily required to submit disability certificate duly issued by the Government Medical College and Hospital before selection.

4. Mr. Giri, learned Senior Advocate representing the petitioners, after going through the afore noted prescriptions of the Advertisement, submitted that the disabled candidates are entitled 4% of horizontal reservation and such reservation would only be extended to the candidates, who are residents of State of Bihar or having domicile of Bihar. The aforesaid facts are also fortified in view of letter No. 2701 dated 13.02.2024, which has been published as Master Circular in relation to the reservation for appointment, promotion and admission in educational institutions. The said letter clarified that with regard to the equal participation and other facilities of disabled persons, detailed circulars and resolution No. 13062 dated 12.10.2017, resolution No. 962 dated 22.01.2021 have been issued. Clause 6



of the Master Circular mandates that the benefit of reservation will be given only to the candidates who are residents of Bihar and therefore, candidates who are outside the State of Bihar will not be given any reservation.

5. The petitioners apprehending foul play on account of lack of clarification with regard to extending benefit of reservation to the candidates, who are not even the resident of State of Bihar, earlier moved before this Court in CWJC No. 17020 of 2024 titled as *Pankaj Kumar & Ors. vs. State of Bihar & Ors.* seeking a direction, inter alia, upon the concerned respondents to prepare the merit list against Advertisement No. 22/2024 for appointment to the post of Primary Teachers, after giving the benefit of reservation of disabled quota to the candidates belonging to the State of Bihar and the candidates who applied against the disabled quota from outside the State of Bihar shall be considered against Unreserved Category in compliance of resolution No. 20150 dated 15.11.2022. The relief was also sought for to declare any appointment made in conflict of resolution No. 20150 dated 15.11.2022 and letter No. 2701 dated 13.02.2024 *void ab initio*, illegal and bad in law. The aforesaid writ petition however came to be dismissed vide order dated 26.11.2024 on the ground that the writ application is



premature and the petitioners do not have *locus* to maintain the present writ petition.

6. This court has further been apprised that before publication of the advertisement, the General Administration Department had published resolution bearing memo No. 962 dated 22.01.2021 with respect to giving reservation to the disabled candidates upto 4% horizontal reservation to the candidates belonging to the disabled quota in view of section 34 of the Rights of Persons with Disabilities Act, 2016. Notwithstanding the clear position in law that the disabled candidates outside the State of Bihar are to be adjusted in the General Category, the Commission after publishing the final merit list of TRE-III has given horizontal reservation to the disabled candidates outside the State of Bihar and, as such, deprived the petitioners from their rightful claim to get the benefit of reservation on account of being resident and having domicile of the State of Bihar.

7. While pressing the writ petition, Mr. Giri, learned Senior Advocate further submitted that the Education Department has published the Bihar State School Teachers (Appointment, Transfer, Disciplinary proceeding and Service Conditions) Rules, 2023 on 10.04.2023. Rule 6 thereof has



clarified that the provision for reservation in direct appointment in the State of Bihar shall be governed with the guidelines issued by the General Administration Department but the respondents are deviating from the guidelines and circulars published by the General Administration Department, where purposes is to give reservation to the disabled quota candidates, who are the residents of Bihar. The General Administration Department in its letter published in the Bihar Gazette on 09.03.2011 by giving a reference to letter No. 70 dated 11.06.1996 clarified that in the State services the benefit of reservation will be given to the persons or the candidates, who are the residents of Bihar. The stipulation mentioned in the afore noted letter has further been reiterated by the General Administration Department through its letter bearing Memo No. 20150 dated 15.11.2022 by which it has been stated that in terms of the Bihar Act 15/2003, the benefit of reservation will be given to the residents of Bihar in State services. The said letter further clarified that any candidates who are not the residents of Bihar are eligible for appointment but their results will be published as per the merit in the General Category. Referring to the cut off marks fixed for various categories of successful candidates published by the Commission, attention of



this Court has been drawn that the benefit of reservation has been given to the candidates who are not even the residents of Bihar and instead of publishing their result in the General Category; they have been allowed the benefit of reservation under the disabled category, contrary to the guidelines of the General Administration Department as well as the Bihar Act, 15/2003.

8. In view of the afore noted contention, learned Senior Advocate representing the petitioners seeking a direction to hold the part of the final result as wholly bad, illegal and against the terms of the resolutions and the Bihar Act 15/2003.

9. On the other hand, refuting the contentions of the learned Senior Advocate representing the petitioners, learned Advocates for the State as well as the Commission have unanimously submitted that the disabled candidates of outside the State of Bihar were declared successful in Unreserved Category under Advertisement No. 22/2024. It is informed that Total 552 disabled candidates of outside the State of Bihar were extended the benefits of disability in Unreserved Category. The resolution in relation to reservation to disabled candidates, including the resolution issued by the Personnel and Administrative Reforms Department as contained in Memo No.



62 dated 05.01.2007, Memo No. 13062 dated 12.10.2017 issued by the General Administration Department and the resolution contained in Memo No. 962 dated 22.01.2021, there is no such prescription that the benefit of *divyang* reservation will be given only to *divyang* (disabled) candidates of the State of Bihar and forbid the disabled candidates of the outside the State of Bihar to extend the benefits of disability reservation.

10. Referring to resolution no. 962 dated 22.01.2021, it is submitted that in terms with the mandate of Rights of Persons with Disabilities Act, 2016, the General Administration Department, Government of Bihar has extended 4% reservation to the disabled candidates in the recruitment of the State services and 5% reservation has been made to the disabled persons in admission of educational academic/institutions under the State of Bihar. In para-2 (2) of the resolution dated 22.01.2021, a clear prescription has been made that based upon merit qualification of the disabled candidate they would be included in Unreserved Category provided they have not availed the earlier benefit of relaxation, limitation of age, qualification and of computer skills etc. It is further submitted that under the Bihar Act 15/2003, the provisions have been made that the resident of candidates outside the State of Bihar will not claim



the benefit of reservation under the State of Bihar and it has further been clarified that the candidate of any categories outside the State of Bihar will not be entitled for reservation in the State of Bihar but prior to issuance of resolution contained in Memo No. 8962 dated 21.05.2025 candidates of other State of Bihar had also been selected on their own merit under Unreserved Category. Thus, it is manifest that prior to coming into force of the said provisions, the candidates of all the categories outside the State of Bihar had been selected on their merit including the persons with disability.

11. However, after passage of time, it was found that the disabled candidates outside the State of Bihar are being selected on their merit in the State of Bihar due to which the disabled candidates of the State of Bihar, even in all respect they fulfill the requisite qualification, are not getting the position in the merit list or selected in the government service or in the higher academic institutions. In the aforesaid premise, the issue of reservation of disabled persons is meticulously examined and took note of the fact that the neighbour States have also been providing horizontal reservation to the disabled candidates who are the original residents of their States. The Government of Bihar under its policy decision vide its resolution contained in



Memo No. 8962 dated 21.05.2025 resolved that under the State of Bihar in the appointment of the services of State of Bihar and admission in higher educational institution, only the reservation would be provided to permanent resident of Bihar even under the horizontal reservation but it would not be retrospective in nature. Since the matter which has been raised by the petitioners is obviously prior to issuance of resolution contained in Memo No. 8962 dated 21.05.2025; the aforesaid provisions would not be applicable in the matter of the petitioners in the instant writ petition. Moreover, after publication of the final result, the entire selection procedures have come to an end and the appointments have also taken place.

12. This Court has carefully heard the learned Senior Advocate/Advocates for the respective parties and also perused the relevant prescriptions of the resolutions/Act referred hereinabove.

13. The only point for consideration as emerged out before this Court is as to whether the disabled candidates of outside of State of Bihar are entitled to get the benefit of horizontal reservation under the Open category in terms with the circulars and the guidelines issued by the State of Bihar through the General Administration Department time to time?



14. Before coming to the issue, it would be pertinent to recapitulate the legal position as crystallized by the Apex Court that even a candidate belonging to any of the vertical reservation categories who on the basis of own merit is entitled to be selected in the Open or the General Category, his selection would not be counted against the quota reserved for such vertical category. The Apex Court in *Saurav Yadav & Ors. vs. State of Uttar Pradesh & Ors. [(2021) 4 SCC 542]*, while considering the issue as to whether such principle laid down in the case of *Indra Sawhney v. Union of India [1992 Supp (3) SCC 217]* and followed subsequently in various decisions also applies to the cases of horizontal reservation, while crystallizing the conflicting views of different High Courts and taking note of various earlier pronouncements, held that the reservation, both vertical and horizontal are method of ensuring representation in public services where a candidate merit which otherwise entitled him to be shown in the General Open Category, is foreclosed as a consequence would be, certainly negate the merit. The Open Category is open to all and the only condition for a candidate to be shown in its merit, regardless of whether reservation benefit of either type is available to her or him.

15. The Hon'ble Supreme Court following the



decision rendered in the case of **Saurav Yadav** (supra) and **Sadhna Singh Dangi vs. Pinki Asati [(2022) 12 SCC 401]** has recently held in the case of **Ramnaresh alias Rinku Kushwah & Ors. vs. State of Madhya Pradesh & Ors. [2024 SCC OnLine SC 2058]** that the methodology adopted by the respondents in compartmentalizing the different categories in the horizontal reservation and restricting the migration of meritorious reservation category candidates to the unreserved seats was totally unsustainable. The relevant paragraph of the judgment is being quoted hereinbelow:

“16. In view of the settled position of law as laid down by this Court in the case of Saurav Yadav (supra) and reiterated in the case of Sadhana Singh Dangi (supra), the methodology adopted by the respondents in compartmentalizing the different categories in the horizontal reservation and restricting the migration of the meritorious reserved category candidates to the unreserved seats is totally unsustainable. In view of the law laid down by this Court, the meritorious candidates belonging to SC/ST/OBC, who on their own merit, were entitled to be selected against the UR-GS quota, have been denied the seats against the open seats in the GS quota.”

Emphasis supplied

16. It would also be pertinent to recapitulate before proceeding further that the benefit of reservation of one State cannot be extended to the other State. The Constitution Bench of



the Hon'ble Supreme Court in *Ranjana Kumari Vs. State of Uttaranchal & Ors. [(2013) 14 SCC 710]* followed in subsequent decision including in the case of *Sanjeev Kumar & Anr. Vs. State of Bihar & Ors. [AIR 2017 SC 1501]* it has been held that the benefit of reservation of SC/ST candidates upon migration to another State is not permissible even when the caste to which they belong is recognized as Scheduled Caste in both the States.

17. Now coming to the case at hand, the advertisement in question especially Clause 6(A) it clearly reads that in terms with resolution No. 962 dated 22.01.2021 issued by the General and Administration Department, the disabled candidate shall be extended the benefit of horizontal reservation to make such claim of reservation. The disabled candidates are mandatorily required to annex the disability certificate issued by the competent authority. The aforesaid stipulation further clarified in Note of Clause 8 that only those disability certificate shall be admissible which are issued by the Government Medical College and Hospital.

18. From perusal of the Government resolution No. 962 dated 22.01.2021, it is evident that the same has been issued in the light of the Rights of Persons with Disabilities Act, 2016,



especially in terms with Section 34 thereof that with regard to the equal participation in extending other facilities to the disabled persons in the process of appointment/selection in the services of the State of Bihar, the benefit of 4% of reservation will be provided for persons with disabilities in recruitment to all types of post and services in all the Department/State/undertaking/Corporation/Bodies/Boards of the State Government. Whereas, under Section 32 of the Act, 2016, 5% horizontal reservation will be provided for candidates with disabilities in admission to all Government educational institutions including those receiving aid from the State Government. Clause 2 of the said resolution dated 22.01.2021 further clarified that the persons with disabilities shall be counted under the Unreserved Category on the basis of merit, provided they have not availed any relaxation related to reservation such as age limit, qualification, computer proficiency. All the resolutions which have been referred by the learned Senior Advocate for the petitioners as well as the resolution contained in Memo No. 962 dated 22.01.2021 based upon which the respondents have come out with the case that the disabled candidates outside the State of Bihar have been selected keeping in view their merit position in the merit list and



have been adjusted against the vacancies of Unreserved Category.

19. There cannot be any slightest confrontation with regard to the legal position that once the candidates, either claiming General category, vertical reservation or horizontal reservation secured their position by securing the cut off marks under the Open category by dint of their merit irrespective of the fact that they belong to the Reserved category, they shall be counted against the Open category which is meant for all. This Court also took note of the relevant provisions of the Bihar Act 15/2003 wherein by making the amendment under Section 4, third proviso has been added to Section 4(2) which reads as follows: “Provided further that the candidates residing out of the State of Bihar shall not claim for the benefits of reservation under this Act. The repealing and savings Clause of the Bihar Act, 15/2003 made it clear that all such orders/resolutions/circulars/provisions of any act which are inconsistent to this amendment Act shall be deemed to be repealed to this extent. Indubitably, it is the statutory prescription of the Act and the Rules which prevails over the terms of the Advertisement if it is found to be inconsistent. However, neither there is any inconsistency in the terms of the



conditions of the caption advertisement nor the same is under challenge.

20. Social reservations in favour of SC/ST and OBC under Article 16(4) of the Constitution are vertical reservation, whereas special reservation in favour of physically handicapped women etc. under Article 16(1) or 15(3) of the Constitution are horizontal reservations. A vertical reservation is made in favour of the backward class under article 16(4); the candidate belonging to such backward class may compete for unreserved post and if they are appointed to the unreserved post on their own merit, their number will not be counted against the quota reserved for respective Backward Class. But the aforesaid principle applicable to vertical social reservations will not apply to horizontal/special reservation where special reservation for handicapped is provided within the social reservation for social caste or other Backward Category, proper procedure is first to fill up the quota for social caste or other backward category in order of merit and then find out the number of candidates among them who belongs to special reservation group of social caste handicapped. If number of handicapped candidates in such list is equal or more than number of special reservation quota, then there is no need for further selection towards the special



reservation quota. Only if there is any shortfall in the requisite number of social caste or other backward category handicapped candidates shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to social caste or other backward category.

21. After careful consideration of the law set at rest by various decisions of the Apex Court, now again coming to the facts of the case, it is writ large that the disabled candidates from outside of the State have been selected keeping in view their merit position against the vacancies of unreserved category in terms with resolution No. 962 dated 22.01.2021 since the disabled quota candidates of OH (Orthopedic), VI (Visually Impaired) and DD (Deaf and Dumb) of the outside of the State of Bihar had applied for appointment to the post of teachers under Open category and they have been adjusted against the disabled quota which falls within the horizontal reservation against Open category candidates, hence their selection and appointment cannot be held to be illegal and unsustainable in law. Since their appointments have been made in terms with Clause 2(ii) of the resolution of the General Administration Department, Government of Bihar contained in Memo No. 962 dated 22.01.2021 where it categorically prescribes that on the



basis of merit calculation of disabled candidates it would be done in unreserved category provided they have not availed the earlier benefit of relaxation, limitation of age, qualification of computer skill etc. Open category is open for all and once a disabled candidate even outside of the State of Bihar competes and secures the cut off marks of a candidate of General Category and competes the marks for the disabled quota, there is no illegality in adjusting them against the disabled category candidates of Open category. Domicile and residence in the concerned State are necessary or prerequisite conditions only for reservation and are not applicable for securing a post advertised under the Open category.

22. In view of the aforesaid facts and the position obtaining in law, this Court does not find any merit in the submissions advanced by the learned Senior Advocate for the petitioners. Accordingly, the writ petition stands dismissed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
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