IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.947 of 2024
In
Civil Writ Jurisdiction Case No.11672 of 2024

CNR No. BRHC010944672024

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Vidyawati Kiran D/O Gulab Chand and Wife of Resident of Mohamadpur Haribhagwanpur P.O P.S Bhagwanpur, District-Vaishali, Bihar.

... ... Appellant

Versus

1. The State of Bihar through Principal Secretary, The General Administration Department, Patna.
2. The Bihar Public Service Commission through the Chairman, 15, Jawaharlal Nehru Marg, Bailey Road, Patna, Bihar.
3. The Secretary Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Bailey Road, Patna, Bihar- 800001.

... ... Respondents

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Appearance :
For the Appellant/s : Mr.Ramakant Ram, Advocate
For the Respondent/s : Mr.Sanjay Kumar Ghosasvey, AC to AAG- 3

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH)

Date : 04-11-2026

In view of the submission made by learned counsel for the Bihar Public Service Commission (hereinafter referred to 'the Commission', paragraph 3 of the previous order dated 5.10.2026 requiring it to pay Rs. 10,000 to the High Court Legal Services Committee, is hereby waived.

2. The present Letters Patent Appeal under Clause 10 of the Letters Patent of the High Court of Judicature at Patna has been directed against the final order and judgment dated 06.08.2024 passed by the Learned Single Judge in Civil Writ Jurisdiction Case No. 11672 of 2024. By the impugned order, the

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Learned Single Judge was pleased to dismiss the writ petition preferred by the present appellant.

3. Brief fact of this case are that pursuant to the advertisement, issued by the Bihar Public Service Commission (hereinafter referred to as BPSC) on 06/02/2020 bearing No 1/2020, writ petitioner (appellant herein) filed an application. Thereafter, he took part in the examination held 07/02/2021 through an admit card issued by BPSC, as Scheduled Caste Category Candidate. Being the qualified candidate in preliminary examination, petitioner was allotted admit card to appear in Mains Examination scheduled to be held on and from 12/11/2022 to 15/11/2022 and after passing the Mains Examination, she appeared in the interview with all documents but when the BPSC published the final result of Assistant Prosecution Officer on 2.12.2023, petitioner was amongst the eight candidates declared unsuccessful on the sole ground that her caste/domicile certificate was not issued based on her father's permanent place of residence. Her father is a permanent resident of the State of Uttar Pradesh, whereas she got married in 1996 in Biharand since then she has resided in Bihar continuously. Aggrieved appellant filed C.W.J.C. No, 1264 of 2024, wherein this Court vide order dated 08.02.2024 granted her liberty to approach the Commission for redressal of her grievance. The representation submitted by the appellant was rejected vide Memo No. 5018 dated 07.03.2024, and her review application dated 18.03.2024 was also turned down vide letter dated 26.04.20248. Challenging these rejection orders, the appellant filed C.W.J.C. No. 11672 of 2024, which was dismissed by the Learned Single Judge on 06.08.2024. Hence, this Letters Patent Appeal.

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4. Learned counsel for the appellant submits that the appellant belongs to the Dushadh caste, which is recognized as a Scheduled Caste in both the State of Uttar Pradesh (her natal State) and the State of Bihar (her marital State). She completed her education in Bihar after her marriage on 27.02.1996 and has been permanently domiciled in Bihar for over 28 years. Under Sections 15 and 16 of the Indian Succession Act, 1925, upon marriage, a woman acquires the domicile of her husband. Thus, her domicile is unquestionably Bihar.

5. Per contra, learned counsel appearing for the State and the Commission support the impugned judgment and submit that the conditions governing reservation were clearly stipulated in Advertisement No. 01/2020 before commencement of the selection process. It is submitted that Column 6(ii) of the advertisement specifically provided that the benefit of reservation on the basis of caste would be available only to candidates who are permanent residents/original residents of Bihar. Candidates residing outside Bihar were not entitled to claim such reservation. It is further submitted that Column 6(iii) (A) required candidates belonging to the Scheduled Caste and Scheduled Tribe categories to produce both caste and permanent residence/domicile certificates issued by the competent authority. Learned counsel for the Commission further relies upon the instructions contained in the interview letter, particularly Clause 5(ii), read with the Government instructions dated 08.03.2011 and 10.03.2011, requiring married women claiming reservation to furnish the relevant certificates in the name and address of their father and not their husband. It is contended that the appellant's father is admittedly a resident of Uttar Pradesh and, therefore, the appellant cannot claim the benefit of Bihar-specific reservation merely on

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the basis of her marriage or subsequent residence in Bihar. It is thus submitted that the Commission has acted strictly in accordance with the applicable policy and the conditions of the advertisement, and no interference with the judgment of the learned Single Judge is warranted.

6. Learned counsel for the Commission further contends that in the process of advertisement, it has been clearly mentioned on the line of reservation that those candidates who are not resident of Bihar, shall not be granted reservation and as for grant of reservation permanent resident/domicile certificate is the necessary ingredients. Not only in the advertisement, rather in the interview letter also, it has been categorically mentioned that the resident certificate must be in the name of candidate's father and not in the name of candidate's husband. Secondly, 'the rules of the game' were laid down prior to the examination process and having participated with full knowledge of these terms, the candidate cannot challenge them post-selection.

7. We have heard learned counsel for the parties and perused the materials available on the record.

8. The argument of learned counsel for the appellant based on Sections 15 and 16 of the Indian Succession Act, 1925 is wholly misplaced. Civil domicile acquired by operation of law upon marriage does not automatically confer constitutional reservation benefits under Article 16(4) of the Constitution of India. The fundamental objective behind restricting cross-state reservation benefits is to prevent candidates belonging to general or forward classes in their home State from claiming unearned benefits in another State by marriage or relocation. A person who is a member of a Scheduled Caste in State 'A' cannot carry that

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status to claim reservation benefits in State 'B' upon voluntary migration or marriage. Reservation rights are anchored to the origin and birth of the candidate in the state where the disadvantage was historically suffered. In this regard, reliance is placed on the decision of the Constitution Benches of the Hon'ble Supreme Court in **Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra v. Union of India,** reported in **(1994) 5 SCC 244** and **Bir Singh v. Delhi Jal Board,** reported in **(2018) 10 SCC 312.**

9. In the present case, petitioner is not entitled for benefit as the BPSC has framed the Rule in the light of the State policy and prior to advertisement, this matter has been decided at the Government level, which has also got reflected in Advertisement Columns 6 (ii) and (iii)(A) as well as in clause 5(ii) of the interview letter and, hence, no case of the petitioner is made out.

10. It is also undisputed that ‘rules of the game’ has already been fixed prior to entering the examination process and, therefore, the decision taken by the BPSC is completely in accordance with rule of which the petitioner already had knowledge. Upon perusal of the provisions of law, it transpires that prior to entering into the advertisement, rule was framed and since rule was framed then in that view of the matter the petitioner has no option but to follow the rule until and unless it is changed. Terms of advertisement issued in pursuant to any rules or notification, binds parties having trapping of statutory prescriptions, unless it becomes contrary to either a rule or an Act. Reliance is placed on the decision of the Division bench of this

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Court in case of **Awinash Kumar and others Vs. State of Bihar and others**, reported in **2026(6) BLJ 249.**

11. We, therefore, find no perversity or illegality in the conclusion reached by the learned Single Judge. The appellant has failed to demonstrate that the Commission acted contrary to the applicable recruitment conditions or constitutional provisions.

12. In the result, this Letters Patent Appeal stands dismissed.

(Prabhat Kumar Singh, J)

(Rana Vikram Singh, J)

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