

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5539 of 2023

Vikash Kumar,

... .. Petitioner

Versus

1. The Hon'ble Patna High Court through its Registrar.
2. The Registrar General, Hon'ble Patna High Court, Patna.
3. The Registrar Establishment, Hon'ble Patna High Court, Patna.
4. The Assistant Registrar, Hon'ble Patna High Court, Patna.
5. The Deputy Registrar, Hon'ble Patna High Court, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Suresh Kumar Ishwar, Advocate
For the Respondent/s	:	Mr. Satyabir Bharti, Advocate
		Ms. Kanupriya, Advocate
		Ms. Sushmita Sharma, Advocate
		Mr. Abhishek Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 11-05-2023

Heard learned counsel for the petitioner and the Hon'ble Patna High Court as also the other respondents who are the Officers of the Registry of this Court.

2. The petitioner in the present case is seeking the following reliefs:-

(i) For issuance of an appropriate order, direction, writ in the nature of certiorari for quashing the Advertisement published by Respondent no. 2 on the Hon'ble High Court Website dated 03 Feb. 2023 for appointment of 550 vacant posts of Assistants in the Hon'ble Patna High Court in Group B Posts in the level-7 as contained in Annexure-1 to this application whereunder and whereby the Respondent no. 2 has issued the advertisement on 03.02.2023 vide Advertisement No. PHC/01/2023 for appointment to 550 vacant posts of Assistants Hon'ble Patna High Court in Level-7 for which they have given



the detail of reservation in the aforesaid appointment.

Total number of seat-550. They are as follows:

Sl. No.	Category	Total number of posts	Horizontally as Reserved posts for women
1	unreserved	236+2 (backlog)	76
2	Schedule Castes (SC)	88	33
3	Schedule Tribes (ST)	05	02
4	Extremely Backward Classes (EBC)	99	39
5	Backward Classes (BC)	66	22
6	Economically Weaker Section (EWS)	54	17
	Total	548+2 (Backlog)	189

Out of 550 posts, 22 (twenty two) posts shall be for Horizontally Reserved for Orthopaedically handicapped (OH) candidates in their respective category and the Respondents have not considered the reservation policy of State Government vide letter no. 2526 dated 18.02.2016 by which State Government has given 2% reservation in the State Government appointment to the Ward of (grandson and grand daughter) of the freedom fighter that the respondents have followed the reservation policy of the Central Government as well as the State Government. But only exclude/ignoring the decision of State Government for reservation of 2% for the freedom fighter (Grandson and Granddaughter within the State Vacancy.

(ii) That for issuance of an appropriate order, direction, writ in the nature of Mandamus for commanding and directing the respondents-authorities to allow/give 2% reservation to the category of freedom fighter ward, grandson and grand daughter as per decision of the State Government vide letter no. 2526 dated 18.02.2016 as the Hon'ble has followed the reservation policy of the State Government and Central Government except 2 % reservation to the freedom fighter grandson and grand daughter.

(iii) For issuance of an appropriate order, direction, writ in the nature of mandamus for commanding and directing the respondents to modify/make necessary correction in the Advertisement No. PHC/01/2023 dated 03.02.2023 for appointment of 550 vacant posts of Assistant in the



Hon'ble Patna High Court by the allowing including the 2% reserved posts to the freedom fighter ward (Grandson, grand daughter) as per the decision/reservation policy of the State Government and as such 11 posts may kindly be allotted/given to the Ward of Freedom Fighter grandson and grand daughter out of total vacancy of 550 posts;

(iv) For issuance of an appropriate order, direction, writ in the nature of mandamus for commanding and directing the respondents to allow/consider the petitioner's application within the 2% reserved category of post of Freedom Fighter Wards grandson and grand daughter as the Reservation Policy of the State Government that the petitioner has applied in the general category post because the respondents have not given/ mentioned the 2% reservation of the freedom fighter wards, grandson and grand daughter posts in the aforesaid advertisement dated 03.02.2023 vide Advertisement No. PHC/01/2023 and the last date was 07.03.2023 and such the petitioner have applied in the general category.

(v) And/Or pass such other order or orders, directions, writs as your Lordship may deem fit & proper in interest of justice to the petitioner for which he is entitled under the law."

Brief Facts of the Case

3. The respondent no. 1 through its Registrar General (respondent no. 2) has invited online application from eligible candidates for appointment against 550 vacant posts of Assistants in the Hon'ble Patna High Court which are Group 'B' posts Level '7'. A copy of the Advertisement bearing No. PHC/01/2023 has been brought on record as Annexure '1' to the writ application.

Submission of the Petitioner

4. Learned counsel for the petitioner submits that the advertisement contains details of the posts as well as reservation given to the candidates in the different categories but there is no



reservation to the category of freedom fighters' grandsons and grand-daughters in the said advertisement.

5. It is the case of the petitioner that he is a grandson of a freedom fighter and there is a decision of the State Government as contained in communication vide Letter No. 2526 dated 18.02.2016 (Annexure '4') to provide 2% reservation to the freedom fighters' grandsons and grand-daughters.

6. Learned counsel for the petitioner submits that the respondents are obliged to follow the reservation policy of the Central Government and the State Government, therefore, an appropriate direction be issued to the respondents.

7. Reliance has been placed on Rule 10 of the Patna High Court Officers and Staff Rules, 2021 (hereinafter referred to as 'the Rules of 2021') to submit that it envisages amongst others "reservation for other categories, if any,".

Submission of the Respondents

8. This writ application has been opposed by learned counsel for the respondents. It is submitted that Rule 10 specifically provides that the reservation, if any, shall be in accordance with the orders issued by the Chief Justice from time to time having due regard to the legislative enactment and orders issued by the Governor of Bihar from time to time on the subject,



thus, his submission is that apart from the categories already mentioned in the Rule 10, reservation for other categories, if any, may only be provided by an order issued by Hon'ble the Chief Justice regard being had to the legislative enactments. It is submitted that no such order providing reservation for other categories has been issued and the petitioner has not brought to the notice of this Court any order issued by Hon'ble the Chief Justice in this regard.

Consideration

9. Having heard learned counsel for the petitioner and learned counsel for the respondents as also on perusal of Rule 10, this Court finds substance in the submissions made on behalf of the respondents.

10. Rule 10 of the Rules of 2021 reads as under:-

“10. Reservation.- Reservation in direct recruitment to the various categories of posts in the ‘Establishment’ in favour of the members of Scheduled Castes, Scheduled Tribes, Backward Classes, Extremely Backward Classes, Economically Weaker Sections (EWSs) of the State (who are not covered under the existing scheme of reservation for the SC, ST, BS, EBC); horizontal reservation for Women & Orthopedically Handicapped and reservation for other categories, if any, shall be in accordance with the orders issued by the Chief Justice from time to time having due regard to the legislative enactment and orders issued by the Governor of Bihar from time to time on the subject.”

11. Admittedly, no order providing for reservation for any other categories has been issued by Hon'ble the Chief Justice.



12. In such circumstance, the prayer for quashing of the advertisement is devoid of merit. The examination has already been conducted.

13. This writ application is dismissed.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.05.2023
Transmission Date	

