
(1986) 09 PAT CK 0003

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3848 of 1985

Jagdish Singh

APPELLANT

Vs

The State of Bihar and others

RESPONDENT

Date of Decision : 01-09-1986

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1987) PLJR 14

Hon'ble Judges : N.P. Singh, J;A.K. Sinha, J

Bench : Division Bench

Advocate : Jayanandan Singh and Prasoon Sinha, for the Appellant; Krishna Nandan Prasad Singh, G.P. III and Gopal Prasad, J.C. to G.P. III., for the Respondent

Final Decision : Allowed

Judgement

N.P. Singh, J.—A Government order making reservation of 2% (sic) of seats in Government Primary Teachers" Training Colleges for admission of the wards of the Secretariat staff of the Education Department and the staff of the Teachers" Training Colleges is under challenge in the present writ application. The order in quest-on was issued by the Special Secretary to the Department of Education on 26.5.1985. A learned Judge of this Court in an earlier writ application filed by the petitioner along with one another (C.W.J.C. No. 4165 of 1984) has already held more or less similar order of reservation dated 8.2.1984 for the wards of the Secretariat employees of the Department of Education and the employees of the Teachers" Training Colleges" invalid by a judgment dated 6.1.1986. Thereafter the present writ application has been admitted and referred to a Division Bench for hearing. The relevant part of the order which is under challenge is as follows :--

2. On behalf of the petitioner it was urged that there is no rational basis for making reservation for the wards of the officers and the employees of the Education Department posted at Secretariat or at the Teachers" Training Colleges

of the State of Bihar because by no stretch of imagination they can be treated as a class which needs protection by way of reservation.

3. The power to make reservation in admission to the educational institutions have been upheld by Courts from time to time. But while upholding such reservations within reasonable limit, it has been consistently pointed out that persons for whom reservation is made must form a class on some reasonable basis, requiring the protection from the State. It has been pointed out by the Supreme Court that to pass the test of permissible classification two conditions must be fulfilled, (i) that the classification is founded on intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and, (ii) that differentia must have a rational relation to the object sought to be achieved.

4. Applying the aforesaid principle it has to be first established on behalf of the respondents that the wards of the officers and the employees of the Education Department and the Teacher's Training Colleges are class by themselves which is founded on an intelligible differentia which distinguishes them from the wards of the officers and the employees of the other departments. Then the next thing which the respondents have to satisfy is that this special treatment which is being given to the wards of such officers and employees has some rational relationship to the object sought to be achieved. In my opinion, none of the two requirements have been fulfilled by the impugned order. The wards of the officers and the employees of the Education Department and the Teachers Training Colleges cannot be treated as a separate class or group of persons having special claim for admission in the Teachers' Training Colleges. Merely because the order for admission in the different Teachers' Training Colleges is to be issued by the Education Department, no special favour can be shown to the wards of the officers and the employees of such department or the Teachers' Training Colleges concerned. Any such decision has no rational relation to any object sought to be achieved except that it purports to give special treatment to the wards of the officers and the employees of the Education Department which had issued the order in question.

5. A Full Bench of this Court in the case of *Umesh Chandra v. V. N. Singh* (A. I. R. 1968 Patna 3) had to consider a similar provision in connection with reservation made for admission into educational institutions for children of University employees. This Court held the said provision to be discriminatory and violative of Article 14 of the Constitution. In that connection it was observed as follows:-

If the University had been a private body, there may be some justification for giving preferential treatment to the children of its own employees, but a public body which is maintained, partly at any rate, by public funds (see section 40) cannot give preferential treatment to the children of its own employees without offending Article 14..... There seems no reasonable nexus between the object intended to be achieved by the Ordinance on the one hand and the principle on which the children of the employees of the University are selected for preferential

treatment on the., other. The object to be achieved by the Ordinance is the making of provision for proper selection of candidates for admission to the Medical course. Requirements about health, minimum marks or proficiency in some special subjects and merit may all be justified as being reasonable, but I find no reasonable nexus between the principle governing admission to the colleges on the one hand and the pecuniary difficulties or the meritorious services rendered by the employees of the Universities on the other. Preferential treatment to the children of employees would amount to favouritism and patronage.

6. Reference in this connection may also be made to the judgment of Andhra Pradesh High Court in the case of Andhra Pradesh Government Technical Education Teachers Associations and others v. Government of Andhra Pradesh and other (AIR 1984 Andhra Pradesh 238) and in the case of S. Sreenivasa Jaideep and another v. The Registrar, Andhra University, Waltair and another (AIR 1985 Andhra Pradesh 81).

7. The learned Government Pleader placed reliance while supporting the order in question on a judgment of the Supreme Court is the case of *Chitra Ghose v. Union of India* (AIR 1970 Supreme Court 35). In that case a dispute had arisen as to whether reservation of seats in the Maulana Azad Medical College, Delhi can be made for the sons and daughters of the residents of Union Territories other than Delhi, while upholding the provision in question it was observed as follows :

These areas are well known to be comparatively backward and with the exception of Himachal Pradesh they do not have any Medical College of their own. It was necessary that persons desirous of receiving medical education from these areas should be provided some facility for doing so.

In my opinion, the aforesaid judgment is of no help to the respondents. The Supreme Court came to the conclusion on the materials produced that the sons and daughters of employees posted in far off areas of the Union Territory formed a class and there was a rational relationship with the object to provide medical educational facilities to such persons.

In the result, this writ application is allowed. The order making reservation for the wards of the officers and the employees of the Education Department and the Teachers' Training Colleges are held to be invalid being violative of Article 14 of the Constitution. I further direct that if admissions are possible against the seats which had been reserved for the wards of such officers and employees, should be filled up in accordance with merit. In the circumstances, there will be no order as to costs.