

(2021) 06 PAT CK 0007

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.4975 of 2020

National Federation of the Blind

APPELLANT

Vs

State of Bihar & ORS

RESPONDENT

Date of Decision : 03-06-2021

Acts Referred:

Rights of Persons with Disabilities Act, 2016 — Section 34

Citation : (2021) 06 PAT CK 0007

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : S.K. Rungta, Surendra Kumar Singh, Sugandha Prasad, Lalit Kishore, Shilpa Singh

Final Decision : Disposed Of

Judgement

Learned counsel for the parties desire the matter be taken up today.

2. Petitioner has prayed for the following reliefs: -

â??a) issuance of a writ of certiorari or any other appropriate writ order or direction thereby calling for the records relating to the maintenance of

rosters by Respondents for giving effect to 4% reservation for persons with disabilities in terms of section 34 of rights of persons with disabilities act,

2016 in respect of recruitment of primary and secondary teachers as well as impugned advertisement as contained in Memo No. 11/Employment-02-

01/2019/1142 Dated 01.07.2019 issued for this purpose on the basis of the impugned rosters, examine the same and declare that the impugned rosters

have not been maintained in accordance with the statutory provision and the directions of Honâ??ble Apex Court as contained in judgment dated

8.10.2013 in Civil Appeal No. 9096/2013 titles as Union of India vs. National Federation of the Blind & others. as well as in Indira Sawhneyâ??s

case and also not in accordance with the notification published by Bihar Government in extra ordinary edition of Bihar gazette dated 13.12.2017 and consequently quash the impugned advertisement and impugned rosters to that extent.

b) issuance of a writ of mandamus or any other appropriate writ order or direction thereby directing the Respondents to prepare a separate vacancy

based roster taking into account the Total number of vacancies of primary school Teachers and secondary school Teachers in the cadre strength and

issue a corrigendum to the advertisement clearly notifying the number of vacancies for each category of disabilities in the impugned recruitment of

primary school Teachers and secondary school Teachers for the recruitment year 2019-2020 including backlog vacancies in accordance with the

directions of Honâ??ble Apex Court in the judgment dated 8.10.2013 and further by giving the vacancies equivalent to 1% reservation to each

category of disability in the subjects which have been declared suitable for respective category of disability by the Govt. of India as per its Notification

bearing No. 16-15/2010-dd.iii. dated 29.7.2013 and further direct the respondents to allow a reasonable time to persons with disabilities including Blind

persons to apply against the reserved vacancies so notified after the issuance of the corrigendum to the impugned advertisement;

c) Issuance of a writ of prohibition or any other appropriate writ order or direction thereby restraining the Respondents from proceeding with the

recruitment process pursuant to the impugned advertisement till the process for implementation of scheme of reservation for persons with disabilities in

terms of prayer â??Bâ?? is complete.

d) To direct the Respondent to keep the recruitment process is abeyance till the defect as pointed out by the petitioner is rectified by the

Respondents.â??

3. On 24th of July, 2020, we had passed the following order:

â??Request for adjournment is made on behalf of Sri Lalit Kishore, learned Advocate General, who is not in a position on personal ground to assist

the Court today.

Ms. Shilpa Singh, learned Government Advocate, appearing for the respondents invites our attention to para-7 of the counter affidavit filed on behalf

of respondents no. 3 and 6 which reads as under:-

That it is made clear that recruitment of teachers were going on but owing to onset of pandemic Covid-19 the process of recruitment has been stalled for the present.

Prima facie, we are of the considered view that petitioner has made out a case for interference.

As such, we direct in view of the stand already taken by the State that further process of recruitment shall not be commenced or concluded without leave of the Court.

As jointly prayed for, list on 19th August, 2020.

4. Seeking vacation/ modification of the said order, the State filed applications (I.As.No.02 and 03 of 2021) INTER ALIA placing on record certain resolutions passed by the State.

5. On 20th of May, 2021, certain suggestions were given by Sri S. K. Rungata, learned Senior Counsel, on which the learned Advocate General sought time to obtain instructions from the State.

6. The matter was again listed on 31st of May, 2021 when it was again adjourned.

7. Today, Sri Lalit Kishore, learned Advocate General, has placed on record the decision taken by the Government vide communication dated

02.06.2021 of the Additional Chief Secretary, Education Department, Government of Bihar, Patna which reads as under:-

8. In view of the said decision, Sri Rungata, learned Senior Counsel for the petitioner, states that this petition can be disposed of with a direction to the State to take appropriate action as per law, reserving liberty to the petitioner to file a fresh petition if the need so arises on the same and subsequent cause of action.

9. Liberty granted clarifying that the decision of the State reproduced supra taken on record and accepted be complied with strictly as per law. It is expected of the State to expeditiously fill up the vacancies in terms thereof expeditiously, in accordance with law and the resolutions placed on the record of this file.

10. It stands reiterated that the contents of the communication dated 2nd June, 2021 reproduced supra shall form part of the order.

11. In view of the same, the petition stands disposed in the above terms.

12. Interlocutory Application(s), if any, shall stand disposed of.

13. We appreciate the efforts put in by Sri Lalit Kishore, learned Advocate General, Sri S. K. Rungata, learned Senior Counsel, Sri Surendra Kumar Singh and Ms. Sugandha, learned counsel for the petitioner in assisting the Court, arriving at an arrangement mutually beneficial for all.