

(2018) 01 PAT CK 0148

In the Patna High Court

Case No : Letters Patent Appeal No. 1626 Of 2014 In Civil Writ Jurisdiction Case No. 7777 Of 2012

Rakesh Kumar Singh

APPELLANT

Vs

State Of Bihar Through The Principal Secretary And Ors

RESPONDENT

Date of Decision : 24-01-2018

Acts Referred:

Citation : (2018) 3 PLJR 245

Hon'ble Judges : Ajay Kumar Tripathi, J; Nilu Agrawal, J

Bench : Division Bench

Advocate : Sanjeev Kumar Singh, Madhurendra Kumar

Final Decision : Dismissed

Judgement

Heard counsel for the appellant and counsel for the private respondent.

A detailed consideration has been made by the learned Single Judge in his order dated 16.06.2014. The issue was as to how the benefit of reservation

to a handicapped candidate is going to be extended for appointment in this case on the post of Panchayat Teacher.

The learned Single Judge has reached a conclusion that the petitioner of the writ, who is private respondent in appeal, had to be considered in the

physically handicapped category candidate amongst the female candidates.

This Court is not willing to go into all the details of what has been discussed by the learned Single Judge in coming to the conclusion but the basic

essence of the whole discussion emanates from the concept of providing reservation to the category of handicapped candidates.

It is well established now that under the disabilities Act even the State of Bihar has issued certain notifications. One of them is dated 05.01.2007 and it

is absolutely unambiguous that reservation under the physically handicapped category is to be provided in a horizontal manner and not vertical manner, meaning thereby that on a post, which is reserved for a particular class of people, the handicapped candidate of the same class or category of people or person will have to be considered for extending the benefit of reservation under the physically handicapped category.

The effort on the part of the present appellant is to show that since a female category candidate had already been given benefit of reservation,

therefore, additional benefit of reservation cannot flow under the physically handicapped category. The physically handicapped have to be clubbed as

a class and reservation has to be extended amongst the same. If such an interpretation is given, it will amount to vertical reservation and not horizontal reservation.

If that be so, then learned Single Judge has committed no error by allowing the writ application.

We are in agreement with the decision and the judgment of the learned Single Judge dated 16.06.2014. No infirmity emerges therefrom. The appeal is dismissed with a direction upon the authorities to do the needful.