
(2006) 12 PAT CK 0058
In the Patna High Court

Sundar Lal

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-12-2006

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2007) 1 PLJR 349

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Judgement

V.N. Sinha, J.—Heard learned counsel for the petitioner and the State and perused the counter affidavit, duly affirmed by the Additional Collector, Muzaffarpur.

2. Petitioner had applied for selection on a Class-III post, advertised by the Bihar Public Service Commission in the year 1998. Recommendations dated 16.1.2003 were made recommending 87 candidates for appointment against 106 advertised posts. Petitioner is one of the recommended candidate under Scheduled Caste Category. He has been refused appointment on the ground that he is resident of Jharkhand State, as is evident from the minutes of the District Establishment Committee dated 28.3.2005, Annexure-B to the counter affidavit and in compliance of those minutes, even a formal order has been communicated to the petitioner under letter No. 515 dated 8.6.2005, Annexure-7 to the Interlocutory Application No. 2568 of 2006. It further appears from the minutes of the District Establishment Committee dated 28.3.2005, Annexure-B to the counter affidavit that in his place Raju Kumar, who is admittedly below the petitioner, has been recommended for appointment.

3. Having heard counsel for the parties, I am of the view that once the petitioner is selected and recommended for appointment on the basis of his merit position in the merit list, he cannot be refused such appointment on the ground that he is a resident/domicile of the State of Jharkhand, which action of the State respondents, according to this Court, is violative of Article 16 of the Constitution

of India which does not admit of discrimination on the around of residence.

4. In the facts and circumstances of the case, I direct that petitioner be appointed against one of the vacant post, without disturbing Sri Raju Kumar. Necessary orders, in compliance of the present order, should be passed within a reasonable time, in any case within a period of three months from the date of receipt/production of a copy of this order.

5. This writ application is, accordingly, disposed of. No cost.