IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.W.J.C. No. 657 of 2001

Arbind Sharan, son of Shri Raghubir Sharan, resident of Village-Isapur, P.O.-War, P.S.-Madanpur, District-Aurangabad.

..... … Petitioner

Versus

1. Bihar College Service Commission, through its Secretary, Boring Canal Road, Patna.
2. The Governing Body of J.M. College, Bhurkunda, through its Secretary, P.O. Bhurkunda, District-Hazaribagh.
3. The Principal, J.M. College, Bhurkunda, P.O. Bhurkunda, District-Hazaribagh.
4. Binod Kumar Singh, Lecturer in J.M. College, Bhurkunda, P.O. and P.S.-Bhurkunda, District-Hazaribagh.

..... … Respondents

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner	:	Mr. Afaque Ahmed, Advocate.
	:	Mr. Sharabil Ahmed, Advocate.
For the State of Bihar	:	Mr. S.P. Roy, Advocate.
For the Intervenor	:	Mr. K.K. Singh, Advocate.

18/ 30.01.2026 This matter has been assigned by Hon'ble the Chief Justice to this Court, that's is how, this writ petition has been listed before this Bench.

2. Heard Mr. Afaque Ahmed, learned counsel appearing for the petitioner, Mr. S.P. Roy, learned counsel appearing for the State of Bihar and Mr. K.K. Singh, learned counsel appearing for the intervenor.

3. It appears that the notice upon respondent Nos. 2 and 3 have already been effected and pursuant to that one advocate has also put his appearance and has filed counter affidavit, however, in the subsequent proceedings, the advocate was not appearing, in view of that further notice has been issued upon the respondent Nos. 2 and 3,

which has also been effected and further the counter affidavit, filed on behalf of respondent Nos. 2 and 3 is available on record and in view of that this writ petition is being heard in absence of respondent Nos. 2 and 3.

4. By order dated 09.10.2002, this writ petition was admitted and it has been observed that the intervention petition as also the interlocutory petition shall be considered at the time of hearing of the writ petition.

5. Mr. K.K. Singh, learned counsel appearing for the intervenor submits that the intervenor has been appointed on the third post of lecturer in Physics in the said college pursuant to the recommendation of the Bihar College Service Commission, in view of that the intervenor is a necessary party. He next submits that the counter affidavit has also been filed on behalf of the intervenor.

6. In view of his such submission and looking into the subject matter of the writ petition that relates to appointment of third post of the lecturer in Physics, it transpires that the intervenor who is Binod Kumar Singh is a necessary party, as such the prayer made in I.A. No. 660 of 2001, which has been filed for intervention in the matter is allowed and the same is disposed of.

7. By the said order dated 09.10.2002, it was further observed that I.A. No. 851 of 2001 shall also be heard at the time of hearing of this writ petition, wherein the challenge has been made of the appointment of three persons. In the said I.A., prayer is also made for quashing of the recommendation of the Bihar College Service Commission, Patna, issued by letter No. 1623 dated 14.02.2000 on the ground that the same is against the law of reservation.

8. In view of the above, the prayer to the above effect is allowed and the aforesaid I.A. stands disposed of.

9. Learned counsel appearing for the petitioner will incorporate the same in the prayer portion of the writ petition in course of the day.

10. This writ petition has been filed for a direction to the respondents, particularly respondent Nos. 2 and 3 to pass necessary orders for appointment of the petitioner on the post of Lecturer in physics in J.M. College, Bhurkunda, on the recommendation of Bihar College Service Commission on 14.2.2000. Prayer is further made for a direction to strictly follow and implement the reservation policy.

11. In view of allowing the prayer in I.A. No. 851 of 2001, as aforesaid, the further challenge is made for quashing of the recommendation of the Bihar College Service Commission, Patna, issued by letter No. 1623 dated 14.02.2000 on the ground that the same is against the law of reservation.

12. Mr. Afaque Ahmed, learned counsel appearing for the petitioner submits that the petitioner has passed M.Sc. examination in Physics in first class from Magadh University, Bodh Gaya. He next submits that pursuant to the advertisement No. 24 /94, the petitioner applied for the post of Lecturer in Physics in J.M. College, Bhurkunda, Hazaribagh. He then submits that by letter dated 22.12.1998, the petitioner was called to appear in the interview and the date of interview was fixed on 12.01.1999. He further submits that the petitioner has appeared before the respondent No. 1 and he was interviewed and thereafter the petitioner was recommended by the Bihar College Service Commission for the post of Lecturer in Physics in J.M. College, Bhurkunda,

Hazaribagh by letter dated 14.02.2000, which was communicated by the Secretary of the Commission and the said recommendation was also sent to the respondent No. 2 by the Commission to the Governing Body of the college.

13. Learned counsel also submits that when no action was taken on the said recommendation, the petitioner has moved before the Secretary of the college and pursuant to that the Secretary has requested the Principal of the said College to allow to take classes in the said college. He next submits that the petitioner also met and requested the respondent No. 2 to act on the recommendation of the Commission and to allow him to take the classes. He then submits that the petitioner has also made representation before the higher authorities including the Director, Higher Education, Government of Bihar, Patna, who also wrote letter to the Principal of that college to do the needful. He also submits that the petitioner has also approached the National Commission for Scheduled Caste and Scheduled Tribe and the said Commission has also requested the Principal to do the needful. He further submits that in spite of these facts and the recommendations made by the Bihar College Service Commission, the petitioner was not appointed on the post of lecturer of Physics and without following the reservation policy, the appointment has been made and in view of that appropriate direction may kindly be issued.

14. Mr. S.P. Roy, learned counsel appearing for the State of Bihar submits that now the Bihar College Service Commission has already been abolished in the year 2007 itself. He next submits that the Education Department of the State of Bihar has filed the counter affidavit and by way of referring para-15 of the said counter affidavit,

he submits that the records relating to recommendation made for appointment of teachers in affiliated collage by the then Bihar College Service Commission are not available in the Higher Education Directorate of the Education Department, Bihar. He further submits that the writ application has been filed as per the requisition of the College in question, the Commission came out with an advertisement followed by selection process, recommended the names of petitioner and others for appointment as Lecturer in the subject Physics in the College in question. He then submits that the records of the Commission is not available with the Department, therefore, the Department is not in a position to state as to the names of candidates recommended along with petitioner. He also submits that it is for the college to look into the grievance of the petitioner.

15. Mr. K.K. Singh, learned counsel appearing for the newly added respondent No. 4 Binod Kumar Singh submits that the petitioner has only applied only for the said post of lecturer pursuant to the advertisement No. 24/1994 and he has not applied for advertisement No. 1418/1994. He submits that so far as respondent No. 4 is concerned, he has applied pursuant to the advertisement Nos. 24/1994 and 1418/1994. He then submits that for the third post of lecturer in Physics, the advertisement No. 1418/1994 was meant. He next submits that the respondent No. 4 was recommended as a second choice, pursuant to advertisement No. 24/1994 and the respondent No. 4 was recommended as a first choice pursuant to advertisement No. 1418/1994, where only one post was there and pursuant to that the first recommendation was there of the respondent No. 4 and the second choice was of the petitioner herein. He further submits that the

petitioner is already discharging his duties with effect from 19.04.2000 and he has been further confirmed on that post on 04.05.2011 by the Vinoba Bhave University vide memo No. 771 and now he has completed more than 25 years of his service. He then submits that by the recommendation of the Bihar College Service Commission, the petitioner is working since 14.11.1990. He also submits that so far as recommendation on third post of the lecturer in Physics is concerned, that was only by the advertisement No. 1418/1994 and only one post was advertised. He next submits that since there was only one post, there was no question of reservation. On these grounds, he submits that this writ petition is fit to be dismissed.

16. In view of the above submissions of learned counsel appearing for the respective parties, the court has gone through the materials available on record including the Annexures. It transpires that three advertisements were made and the petitioner has applied for the posts, pursuant to advertisement No. 24/1994, wherein the respondent No. 4 has applied for both the advertisements i.e. 24/1994 and 1418/1994 and it has been pointed out that so far as advertisement No. 1418/1994 is concerned, that was for the one post only and i.e. the third post. Admittedly, the petitioner has not applied for the advertisement No. 1418/1994 and recommendation was made by the Bihar College Service Commission by letter No. 1623 dated 14.02.2000, pursuant to three advertisements and it is for the third post, the name of respondent No. 4 was recommended, as a first choice relating to advertisement No. 1418/1994, wherein the name of the petitioner was recommended as a second choice. The petitioner has not applied for the third post pursuant to advertisement No. 1418/1994, as such, if any claim is made out so

far as the petitioner is concerned i.e. against the advertisement No. 24/1994 and for the second post one Smt. Sheela Singh has already been appointed relating to advertisement No. 24/1994 and for the second post, as a second choice, the recommendation was also there of respondent No. 4 who is Binod Kumar Singh. In light of advertisement No. 1418/1994, there was only one post, as such, there is no question of following the reservation.

17. Further the respondent No. 4 and two other persons have already been working for more than 25 years, the equity goes in favour of the persons, who are already working since last 25 years. In the given situation, when one possible view has been acted upon by the Commission and pursuant to which the recommendations were made and candidates have been appointed and are working for almost 25 years by this time, it will be unjust for this court to now direct to take a U-Turn in view of the prayer of the petitioner and non-suit the candidates who are working for sufficiently long time i.e. 25 years.

18. In view of the above, no case of interference is made out, as such, this writ petition is dismissed. Pending I.A., if any, stands disposed of.

(Sanjay Kumar Dwivedi, J.)

Dated:-30.01.2026
Amitesh/-

[A.F.R.]