

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.604 of 2023**  
**In**  
**Civil Writ Jurisdiction Case No.8932 of 2020**

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1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Higher Education, Education Department, Government of Bihar, Patna.

... .. Appellant/s

Versus

1. Dr. Amod Prabodhi Son of Devendra Prasad Singh, Resident of Village-Prabodhi Narendra , P.S.- Sarai, District- Vaishali.
2. Rajesh Kumar Choudhary Son of Late Ramprasad Choudhary, Resident of Village- Laheria Sarai P.S.-Laheria Sarai, District- Darbhanga.
3. Ashok Kumar Son of Sri Yaduvansh Roy, Resident of Village-Kishopur, P.S.-Vaishali, District-Vaishali.
4. Rajeev Joshi Son of Binod Kumar Yadav, Resident of Village- Rariyaha, P.S.- Ghailarh, District- Madhepura.
5. Anil Kumar Son of Ashok Kumar Singh, Resident of Parwaati Hata, Bhatta Bazar, P.S.-K. Hat, District- Purnea.
6. Brahmdeo Kumar Son of Late Bindeshwari Yadav, Resident of Village-Mangerwara, P.S.-Srinagar, District- Madhepura.
7. Kawita Kumari D/o Anil Kumar Singh, Resident of Village-Basant Vihar, Dighi Kala (W) P.S.-Hajipur Sadar, District-Vaishali.
8. Shailendra Kumar Son of Late Harinandan Sharma, Resident of Village-Kauriya, P.S.-Ghoshi, District-Jehanabad.
9. Dr. Om Prakash Son of Late Sarvendra Ray, Resident of Village- Lawapur Mahnar, P.S.-Mahnar, District-Vaishali.
10. The Bihar State University service Commission, through its Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
11. The secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
12. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
13. The Vice Chancellor, Patna University, Patna.
14. The Vice Chancellor, Jai Prakash University, Chapra.
15. The Vice Chancellor, Patliputra University, Patna.
16. The Vice Chancellor, Purnea University, Purnea.
17. The Vice Chancellor, B.R. Ambedkar, Bihar University, Muzaffarpur.



18. The Vice Chancellor, Bhupendra Narayan Mandal University, Madhepura.
19. The Vice Chancellor, Magadh University, Bodh Gaya.
20. The Vice Chancellor, Kameshwar Singh Sanskrit University, Darbhanga.
21. The Vice Chancellor, Munger University, Munger.
22. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
23. The Vice Chancellor, Veer Kunwar Singh University, Chapra.
24. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur.

... .. Respondent/s

with

**Letters Patent Appeal No. 622 of 2023**  
**In**  
**Civil Writ Jurisdiction Case No.8932 of 2020**

1. Chakravir Kumar Son of Kamal Paswan Resident of Q. No. 111, Sector- 3E, Town- BS City, P.O- Khuntadi, P.S.- Bokaro, District- Jharkhand, Pin Code- 827003.
2. Uma Shankar Sah Son of Shyam Babu Sah Resident of P.O-Dumari, P.S- Dumari Dakhil, District-Samastipur, Pin Code- 848 122
3. Shailesh Kumar son of late Ramchandra Choudhari Resident of MIG 91/92, Shaheed Bhagat Singh Colony, Mustafa Bad, P.O-Rampur, P.S.-Gaya, District-Gaya, Pin Code-823 001.
4. Amit Kumar Ranjan son of Ram Bali Ram Resident of village-Gamhariya, P.O.- Mion, P.S. and District-Kaimur (Bhabhua), Pin Code-821 101
5. Sushil Kumar son of Chauthi Baitha Resident of village-Sain Patti Bangra, Near Aangan Bari Kendra, P.O. and P.S.-Sain Patti, District-Muzaffarpur, Pin Code-843 109
6. Kaushal Kumar, Care of Ramanand Paswan, resident of village and P.O. and P.S.-Ubdhi, District-Rohtas, Pin Code-802 213

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Higher Education, Education Department, Government of Bihar, Patna.
4. The Bihar State University service Commission, Through its Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
5. The secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.



6. The Chairman, Bihar State University service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna800001.
7. The Vice Chancellor, Patna University, Patna.
8. The Vice Chancellor, Jai Prakash University, Chapra.
9. The Vice Chancellor, Patliputra University, Patna.
10. The Vice Chancellor, Purnea University, Purnea.
11. The Vice Chancellor, B.R. Ambedkar, Bihar University, Muzaffarpur.
12. The Vice Chancellor, Bhupendra Narayan Mandal University, Madhepura.
13. The Vice Chancellor, Magadh University, Bodh Gaya.
14. The Vice Chancellor, Kameshwar Singh Sanskrit University, Darbhanga.
15. The Vice Chancellor, Munger University, Munger.
16. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
17. The Vice Chancellor, Veer Kunwar Singh University, Chapra.
18. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur
19. Dr. Amod Prabodhi Son of Devendra Prasad Singh Resident of Village Prabodhi Narendra, P.S-Sarai, District-Vaishali
20. Rajesh Kumar Choudhary Son of Late Ramprasad Choudhary Resident of Village-Laheria Sarai P.S.-Laheria Sarai, District-Darbhanga.
21. Ashok Kumar Son of Sri Yaduvansh Roy Resident of Village-Kishopur, P.S.-Vaishali, District-Vaishali.
22. Rajeew Joshi Son of Binod Kumar Yadav Resident of Village-Rariyaha, P.S.Ghailarh, District-Madhepura.
23. Anil Kumar Son of Ashok Kumar Singh Resident of Parwaati Hata, Bhatta Bazar, P.S.-K. Hat, District-Purnea.
24. Brahmdeo Kumar Son of Late Bindeshwari Yadav Resident of Village Mangerwara, P.S.-Srinagar, District-Madhepura.
25. Kawita Kumari D/o Anil Kumar Singh Resident of Village-Basant Vihar, Dighi Kala (W) P.S.-Hajipur Sadar, District-Vaishali.
26. Shailendra Kumar Son of Late Harinandan Sharma Resident of Village Kauriya, P.S.-Ghoshi, District-Jehanabad.
27. Dr. Om Prakash Son of Late Sarvendra Ray Resident of Village- Lawapur Mahnar, P.S.-Mahnar, District-Vaishali.

... .. Respondent/s

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with  
**Letters Patent Appeal No. 832 of 2023**  
**In**  
**Civil Writ Jurisdiction Case No.5853 of 2021**

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1. The State of Bihar through Principal Secretary, Education Department, Government of Bihar, Patna.



2. The Principal Secretary, Education Department, Government of Bihar, Patna.

... .. Appellant/s

Versus

1. Raj Laxmi Wife of Dr. Hariniwash Singh, Resident of Manik Sarkar Chowk, P.S.-Jagdishpur, District-Bhagalpur.
2. The Bihar State University Service Commission through its Secretary, Patna.
3. The Secretary, Bihar State University Service Commission, Patna.
4. The Chairman, Bihar State University Service Commission, Patna.

... .. Respondent/s

with

**Letters Patent Appeal No. 833 of 2023**

**In**

**Civil Writ Jurisdiction Case No.17074 of 2022**

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. The Secretary Education Department, Govt. of Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna-17.

... .. Appellant/s

Versus

1. Padam Bhushan Prasad Singh @ Padm Bhushan Prasad Singh Son of Late Yugal Kishore Prasad Singh @ Yugal Kishor Resident of Village and P.O.- Bhagwanpur Kamla, Ward No. 11, P.S.- Ujiarpur, District- Samastipur.
2. The Chairman, Bihar State University Service Commission, 8th, Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna- 1.
3. The Chairman, Bihar Public Service Commission, 15th, Jawahar Lal Nehru Marg, Bailey Road, Patna-1.
4. The Honble Chancellor, University of Bihar, Governor's Secretariat, Raj Bhawan, Patna-22.

... .. Respondent/s

with

**Letters Patent Appeal No. 834 of 2023**

**In**

**Civil Writ Jurisdiction Case No.433 of 2021**

1. The State of Bihar through its Principal Secretary, Principal Secretary, General Administrative Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administrative Department, Government of Bihar, Patna.
3. The Principal Secretary, Education Department, Government of Bihar,



Patna.

... .. Appellant/s

Versus

1. Navin Shankar Pathak Son of Jeetan Pathak, Resident of Niyajipur, P.S.- Simari, Buxar-802131.
2. Dhanjee Pathak Son of Deo Narayan Pathak, Resident of Niyajipur, P.S.- Simari, Buxar-802131.
3. Vinod Kumar Son of Chandeshwar Mehta, Resident of Kawakol, Dudhapania, District-Nawada-805106.
4. Abhishek Kumar Singh Son of Ram Kumar Mukul, Resident of Brahm Sthan, Mehandiganj, Patna City, District-Patna-800008.
5. Arihant Nachiketa Son of Ram Singh, Resident of Baruna, P.O.-Ariaon, District-Buxar-802119.
6. Aman Kumar Son of Rajniti Prasad Yadav, Resident of Awash Board, Ranko, Khagaria, District-Khagaria-851205.
7. Raghubansh Kumar Sinha Son of Kuldeep Singh, Resident of saifganj, P.O.- Bankey Bazar, District-Gaya-824217.
8. Binod Kumar Son of Surya Narayan Yadav, Resident of Bela Singar, Dighiya, Nirmali, District-Supaul-847452.
9. Narendra Kumar Son of Jagdish Prasad, Resident of Kamasi, P.O.- Sheikhpura, District-Sheikhpura-811105.
10. Swati Kumari Daughter of Shatrughan Singh, Resident of Magadh Colony, Gaya, District-Gaya-823001.
11. The University Grants Commission, through its Secretary, New Delhi.
12. The Bihar State University Service Commission, through its Secretary, Budh Marg, Patna.
13. The Secretary, Bihar State University Service Commission, Budh Marg, Patna.
14. The Patna University, through its Registrar, Patna.
15. The Patliputra University, through its Registrar, Patna.
16. The Magadh University, through its Registrar, Bodh Gaya.
17. The Lalit Narayan Mirhila University, through its Registrar, Darbhanga.
18. The Bhupendra Narayan Mandal University, through its Registrar, Madhepura.
19. The Veer Kunwar Singh University, through its Registrar, Ara.
20. The Tilka Manjhi Bhagalpur University, through its Registrar, Bhagalpur.
21. The B.R. Ambedkar Bihar University, through its Registrar, Muzaffarpur.
22. The Kameshwar Singh Darbhanga Sanskrit University, through its Registrar, Darbhanga.
23. The Munger University, through its Registrar, Munger.
24. The Purnia University, through its Registrar, Purnia.



25. The Jai Prakash University, through its Registrar, Chapra.

... .. Respondent/s

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with  
**Letters Patent Appeal No. 835 of 2023**  
**In**  
**Civil Writ Jurisdiction Case No.8817 of 2020**

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1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Principal Secretary, Department of Personnel (KARMIK), Government of Bihar, Patna.
4. The Director, Higher Education, Bihar, Patna.
5. The Divisional Commissioner, Tirhut, Muzaffarpur.

... .. Appellant/s

Versus

1. Digambar Jha Son of Shivnandan Jha R/o Malpur Sighara, Singhara Buzurg, Vaishali, Bihar- 844126.
2. Binod Kumar Singh Son of Umesh Prasad Singh Resident of- Ward 3, Shekhpur, Shekhpura, Muzaffarpur, Sheikhpura, Bihar- 842002.
3. Sk. Md. Hafijur Son of Late Sk. Md. Hasem Resident of Village- Simulia, Kurkuba, Galsi, Barddhaman, West Bengal- 713406.
4. Arti Shukla W/o Ravi Ranjan Shukla Resident of - Madnani Gali, Near City Life, Musahri, Muzaffarpur, Bihar- 842002.
5. Umesh Kumar Ummuct Son of Harendra Prasad Kushwaha Resident of - Bandi, Mohabbatpur, Muzaffarpur, Bihar- 843120.
6. The Bihar State University Service Commission through its Chairman, Patna.
7. The Chairman, Bihar State University Commission, Patna.
8. The Secretary, Bihar State University Service Commission, Patna.
9. The B.R.A., Bihar University through its Vice Chancellor.
10. The Vice Chancellor, B.R.A. Bihar University, Muzaffarpur.
11. The Registrar, B.R.A. Bihar University, Muzaffarpur.

... .. Respondent/s

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with  
**Letters Patent Appeal No. 836 of 2023**  
**In**  
**Civil Writ Jurisdiction Case No.226 of 2023**

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1. The State of Bihar through its Principal Secretary, Education Department, Higher Education, Government of Bihar, Patna.
2. The Director, Higher Education, Education Department, Government of Bihar, Patna.
3. The Principal Secretary, General Administrative Department, Government of Bihar, Patna.

... .. Appellant/s

Versus

1. Rashmi Dutta Daughter of Jai Prakash Dutta Resident of Chitragupta Nagar, Kayasth Tola, Ward No. 29, Police Station-Saharsa, District-Saharsa.
2. The Bihar State University Service Commission through its Chairman, 8th floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna.
3. The Secretary, the Bihar State University Service Commission, through its Chairman, 8th floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna.

... .. Respondent/s

with  
**Letters Patent Appeal No. 890 of 2023**  
**In**  
**Civil Writ Jurisdiction Case No.8932 of 2020**

Shailendra Kumar Son of Late Harinandan Sharma, Resident of Village-Kauriya, P.S.- Ghoshi, District- Jehanabad.

... .. Appellant/s

Versus

1. The State of Bihar Through the Principal Secretary. Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Higher Education, Education Department, Govt. of Bihar, Patna.
4. The Bihar State University Service Commission through its Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
5. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
6. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
7. The Vice Chancellor, Patna University, Patna.
8. The Vice Chancellor, Jai Prakash University, Chapra.
9. The Vice Chancellor, Patliputra University, Patna.
10. The Vice Chancellor, Punea University, Purnea.



11. The Vice Chancellor, B.R. Ambedkar, Bihar University, Muzaffarpur.
12. The Vice Chancellor, Bhupendra Narayan Mandal University, Madhepura.
13. The Vice Chancellor, Magadh University, Bodh Gaya.
14. The Vice Chancellor, Kameshwar Singh Sanskrit University, Darbhanga.
15. The Vice Chancellor, Munger University, Munger.
16. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
17. The Vice Chancellor, Veer Kunwar Singh University, Chapra.
18. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur.
19. Dr. Amod Prabodhi @ Amod Kumar Singh, Son of Devendra Prasad Singh, Resident of Village- Prabodhi Narendra, P.S.- Sarai, District - Vaishali
20. Rajesh Kumar Choudhary, Son of Late Ramprasad Choudhary, Resident of Village-Laheria Sarai, P.S.-Laheria Sarai, District- Darbhanga.
21. Ashok Kumar, Son of Sri Yaduvansh Roy, Resident of Village- Kishopur, P.S.- Vaishali, District- Vaishali.
22. Rajeev Joshi, Son of Vinod Kumar Yadav, Resident of Village- Rariyaha, P.S.- Ghailarh, District- Madhepura.
23. Anil Kumar, Son of Ashok Kumar Singh, Resident of Village- Parwati Hata, Bhatta Bazar, P.S.- K. Hat, District- Purnea.
24. Brahmdeo Kumar Son of Late Bindeshwari Yadav, Resident of Village- Mangerwara, P.S.- Srinagar, District- Madhepura.
25. Kawita Kumar D/o Anil Kumar Singh, Resident of Village - Basant Vihar, Dighi Kala (w), P.S.-Hajipur Sadar, District - Vaishali.
26. Dr. Om Prakash, Son of Late Sarvendra Ray, Resident of Village Lawapur Mahnar, P.S.- Mahnar, District- Vaishali.

... .. Respondent/s

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with  
**Letters Patent Appeal No. 1007 of 2023**  
**In**  
**Civil Writ Jurisdiction Case No.8932 of 2020**

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Rajesh Kumar Choudhary Son of Late Ramprasad Choudahry Resident of Village-Laheria sarai, P.s.-Laheria Sarai, District-Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Higher Education, Education Department, Govt. of Bihar, Patna.
4. The Bihar State University Service Commission through its Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg,



Patna-800001.

5. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
6. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Patna-800001.
7. The Vice Chancellor, Patna University, Patna.
8. The Vice Chancellor, Jai Prakash University, Chapra.
9. The Vice Chancellor, Patliputra University, Patna.
10. The Vice Chamcellor, Punea University, Purnea.
11. The Vice Chancellor, B.R. Ambedkar, Bihar University, Muzaffarpur.
12. The Vice Chancellor, Bhupendra Narayan Mandal University, Madhepura.
13. The Vice Chancellor, Magadh University, Bodh Gaya.
14. The Vice Chancellor, Kameshwar Singh Sanskrit University, Darbhanga.
15. The Vice Chancellor, Munger University, Munger.
16. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
17. The Vice Chancellor, Veer Kunwar Singh University, Chapra.
18. The Vive Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur.
19. DR. Amod Prabodhi @ Amod Kumar Singh Son of Devendra Prasad Singh Resident of Village-Prabodhi Narendra , P.S.-Sarai, District-Vaishali.
20. Ashok Kumar Son of Sri Yaduvansh Roy Resident of Village-Kishopur, P.S.-Vaishali, District-Vaishali.
21. Rajeev Joshi Son of Vinod Kumar Yadav Resident of Village-Rariyaha, P.S.-Ghailarh, District-Madhepura.
22. Anil Kumar Son of Ashok Kumar Singh Resident of Village-Parwati Hata, Bhatta Bazar, P.S.-K. Hat, District-Purnea.
23. Brahmdeo Kumar Son of Late Bindeshwari Yadav Resident of Village-Mangerwara, P.S.-Srinagar, District-Madhepura.
24. Kawita Kumari D/o Anil Kumar Singh Resident of Village-Basant Vihar, Dighi Kala (W) P.S.-Hajipur Sadar, District-Vaishali.
25. Shailendra Kumar Son of Late Harinandan Sharma Resident of Village-Kauriya, P.S.-Ghoshi, District-Jehanabad.
26. Dr. Om Prakash Son of Late Sarvendra Ray Resident of Village- Lawapur Mahnar, P.S.-Mahnar, District-Vaishali.

... .. Respondent/s

**Appearance :**

(In Letters Patent Appeal No. 604 of 2023)

For the Appellant/s : Mr.P.K. Shahi, AG  
Mr. Sanjiv Kumar, AC to AG  
Mr. Amish Kumar, AC to AG



Mr. Sarvesh Kumar Singh, AAG-13  
Mr. Tej Pratap Singh, AC to AAG-13  
Mrs. Sunita Singh, AC to AAG-13  
Mr. Ravi Kumar, AC to AAG-13  
Mr. Arya Achint, AC to AAG-13  
Mr. Rajat Kumar Tiwary, AC to AAG-13  
Mr. Abhinav Alok, AC to AAG-13  
Mr. Sanjeev Kumar, Advocate  
Mr. Rishi Kumar Awashi, Advocate  
Mr. Prashant Kumar, Advocate  
Mr. Arvind Kumar, Advocate  
Mr. Tuhin Shankar, CGC  
For the Respondent/s : Mr. Vinay Mistry, Advocate  
Mr. Amaresh Kumar Singh, Advocate  
Mr. Dineshwar Prasad Singh, Advocate  
Mr. Arvind Kumar, Advocate  
Mr. Gaurav Prakash, Advocate  
Mr. Rishi Kumar Awasthi, Advocate  
Mr. Binay Kumar Singh, Advocate  
Mr. Rakesh Kumar Samrendra, Advocate  
Mr. Rajesh Prasad Choudhary, Advocate  
Mr. Sujeet Kumar Sinha, Advocate  
Mr. Indu Bhushan Pandey, Advocate  
For Respondent Nos. 1,3,7 & 9: Mr. Mrigank Mauli, Sr. Advocate  
Mr. Sanket, Advocate  
For Respondent Nos. 2 and 8: Mr. Satyam Shivam Sundaram, Advocate  
For Respondent Nos. 4,5 & 6: Mr. Anjani Kumar Jha, Advocate  
For LNMU : Mr. Bindhyachal Rai, Advocate  
Mr. Sailesh Kumar, Advocate  
For MU : Mr. Siddhartha Prasad Advocate  
For BSUSC : Mr. Harsh Singh, Advocate  
Mr. Tuhin Shankar, Advocate  
For BRA.Bihar University: Mr. Rakesh Kumar Singh, Advocate  
For Patna University : Mr. Nadim Seraj, Advocate  
Mr. Shahbaj Alam, Advocate  
For JP University : Mr. Shyam Sundar Kumar, Advocate  
For Patliputra University: Mr. Rakesh Kumar Singh, Advocate  
For BNM University : Mr. Shyam Sundar Kumar, Advocate  
Mr. Ritesh Kumar, Advocate  
For Munger University : Mr. Shyam Sundar Kumar, Advocate  
Mr. Ritesh Kumar, Advocate  
For V K S University : Mr. Ramesh Gupta, Advocate  
Dr. Anant Kumar, Advocate  
For TMBU : Mr. Ashraf Mustaffa, Advocate  
For the Chancellor : Mr. Janardan Singh, Sr. Advocate

(In Letters Patent Appeal No. 622 of 2023)

For the Appellant/s : Mr. Abhinav Srivastava, Advocate  
Mr. Rudrank Shivam Singh, Advocate  
Mr. Pushkar Bharadwaj, Advocate  
For Respondent Nos. 1,2 & 3: Mr. Sarvesh Kumar Singh, AAG-13  
Mr. Ravi Kumar (AC to AAG-13)  
For the Respondent/s : Mr. Vinay Mistry, Advocate  
Dr. Anand Kumar, Advocate  
Mr. Ashhar Mustafa, Advocate  
Mr. Binay Kumar Singh, Advocate



Mr. Rakesh Kumar Samrendra, Advocate  
 Mr. Rajendra Kumar Giri, Advocate  
 Mr. Viveka Nand Singh, Advocate  
 Mr. Rajesh Prasad Choudhary, Advocate

For LNMU : Mr. Sunil Kumar Karn, Advocate  
 Mr. Bindhyachal Rai, Advocate

For the PPU : Mr. Rana Vikram Singh, Advocate  
 Ms. Rasika, Advocate

For the JP University : Mr. Bindhyachal Rai, Advocate

For the BNMU : Mr. Ritesh Kumar, Advocate

For MU : Mr. Sidharth Prasad Advocate

For the BRA University : Mr. Viveka Nand Singh, Advocate

For BSUSC : Mr. Harsh Singh, Advocate

For Patna University : Mr. Nadim Seraj, Advocate  
 Mr. Shahbaj Alam, Advocate

For the Chancellor : Mr. Janardan Prasad Singh, Sr. Advocate  
 Mr. R.R.K. Pandey, Advocate

For the JP University : Mr. Bindhyachal Rai, Advocate

For the PPU : Mr. Rana Vikram Singh, Advocate

For the State : Mr. P. K. Shahi, AG

(In Letters Patent Appeal No. 832 of 2023)

For the Appellant/s : Mr. Ravi Kumar (AC to AAG-13)  
 Mr. Rishi Awasthi, Advocate  
 Mr. Arvind Kumar, Advocate

For the Respondent/s : Mr. Vinay Mistry, Advocate  
 Mr. Amresh, Advocate  
 Mr. Dineshwar Prasad Singh, Advocate

For LNMU : Mr. Nadim Seraj, Advocate

For MU : Mr. Sidharth Prasad, Advocate

For BSUSC : Mr. Harsh Singh, Advocate

(In Letters Patent Appeal No. 833 of 2023)

For the Appellant/s : Mr. Ravi Kumar (AC to AAG-13)  
 Mr. Rishi Awasthi, Advocate  
 Mr. Arvind Kumar, Advocate

For the Respondent/s : Mr. Vinay Mistry, Advocate  
 Mr. Manoj Kumar Singh, Advocate  
 Mr. Ram Nibash Prasad, Advocate

For LNMU : Mr. Nadim Seraj, Advocate

For MU : Mr. Sidharth Prasad Advocate

For BSUSC : Mr. Harsh Singh, Advocate

For Respondent No.1 : Mr. Amaresh Kumar Singh, Advocate  
 Mr. Dineshwar Prasad Singh, Advocate

(In Letters Patent Appeal No. 834 of 2023)

For the Appellant/s : Mr. Sarvesh Kumar Singh, AAG-13  
 Mr. Ravi Kumar (AC to AAG-13)  
 Mr. Rishi Awasthi, Advocate  
 Mr. Arvind Kumar, Advocate  
 Mr. Indrajesh Kumar, Advocate

For the Respondent/s : Mr. Vinay Mistry, Advocate  
 Ms. Puja Kumar, Advocate

For LNMU : Mr. Shailesh Kumar, Advocate

For MU : Mr. Sidharth Prasad Advocate

For BSUSC : Mr. Harsh Singh, Advocate

For BRAB University : Mr. Indradesh Kumar, Advocate

For Private Resp. : Mr. Anjani Kumar Jha, Advocate

For the BNMU : Mr. Ritesh Kumar, Advocate



For the Munger Univ. : Mr. Ritesh Kumar, Advocate  
For the Patna Univ. : Mr. Kinkar Kumar, Advocate  
(In Letters Patent Appeal No. 835 of 2023)  
For the Appellant/s : Mr. Ravi Kumar (AC to AAG-13)  
Mr. Rishi Awasthi, Advocate  
Mr. Arvind Kumar, Advocate  
For the Respondent/s : Mr. Vinay Mistry, Advocate  
Mr. Prashant Sinha, Advocate  
Mr. Rishi Raj Raman, Advocate  
For LNMU : Mr. Nadim Seraj, Advocate  
For MU : Mr. Sidharth Prasad Advocate  
For BSUSC : Mr. Harsh Singh, Advocate  
For BRAB University : Mr. Indrajesh Kumar, Advocate  
(In Letters Patent Appeal No. 836 of 2023)  
For the Appellant/s : Mr. Ravi Kumar (AC to AAG-13)  
Mr. Rishi Awasthi, Advocate  
Mr. Arvind Kumar, Advocate  
For the Respondent/s : Mr. Vinay Mistry, Advocate  
For LNMU : Mr. Nadim Seraj, Advocate  
For MU : Mr. Sidharth Prasad Advocate  
For BSUSC : Mr. Harsh Singh, Advocate  
(In Letters Patent Appeal No. 890 of 2023)  
For the Appellant/s : Mr. Satyam Shivam Sundaram, Advocate  
For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG-13  
Mr. Ravi Kumar (AC to AAG-13)  
Mr. Md. Nadim Seraj, Advocate  
Dr. Anand Kumar, Advocate  
Mr. Rakesh Kumar Samrendra, Advocate  
Mr. Ashhar Mustafa, Advocate  
Mr. Sanjeev Kumar, Advocate  
Mr. Vinay Mistry, Advocate  
Mr. Sanket, Advocate  
Mr. Navin Kumar Singh, Advocate  
Mr. Viveka Nand Singh, Advocate  
Mr. Rajesh Prasad Choudhary, Advocate  
For the PPU : Mr. Rana Vikram Singh, Advocate  
Ms. Rasika, Advocate  
For LNMU : Mr. Shailesh Kumar, Advocate  
For MU : Mr. Siddharth Prasad Advocate  
For BSUSC : Mr. Harsh Singh, Advocate  
For the JP University : Mr. Bindhyachal Rai, Advocate  
For the VKMU : Mr. Kinkar Kumar, Advocate  
For BNM University : Mr. Ritesh Kumar, Advocate  
For Munger University : Mr. Ritesh Kumar, Advocate  
For KSDS University : Mr. Binay Kumar Singh, Advocate  
(In Letters Patent Appeal No. 1007 of 2023)  
For the Appellant/s : Mr. Satyam Shivam Sundaram, Advocate  
For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG-13  
Mr. Ravi Kumar (AC to AAG-13)  
Mr. Ashhar Mustafa, Advocate  
Dr. Anand Kumar, Advocate  
Mr. Ritesh Kumar, Advocate  
Mr. Binay Kumar Singh, Advocate  
Mr. Sanjeev Kumar, Advocate  
Mr. Rakesh Kumar Samrendra, Advocate  
Mr. Rajendra Kumar Giri, Advocate  
Mr. Vinay Mistry, Advocate



		Mr. Sanket, Advocate
		Mr. Navin Kumar Singh, Advocate
		Mr. Rajesh Prasad Choudhary, Advocate
For LNMU	:	Mr. Bindhyachal Rai, Advocate
		Mr. Amarendra Kumar, Advocate
For MU	:	Mr. Siddhartha Prasad Advocate
For BSUSC	:	Mr. Harsh Singh, Advocate
For the PPU	:	Mr. Rana Vikram Singh, Advocate
		Ms. Rasika, Advocate
For Patna University	:	Mr. Nadim Seraj, Advocate
For B.R.A. University	:	Mr. Bindhyachal Rai, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE HARISH KUMAR**  
**CAV JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 18-04-2024**

Reservations in appointments have always given rise to contentious issues of the application of the percentage *vis-a-vis* the vacancies; which in the present case has stalled the appointments pursuant to an advertisement of the year 2020, till today. The above batch of appeals challenge the judgment of the learned Single Judge in a batch of writ petitions. The writ petitions were allowed directing the Government to redo the reservations, by clubbing the vacancies in each subject of the various Universities and after determining the backlog vacancies properly. The State in their appeals challenge only the direction to club the vacancies in the different Universities. LPA No. 622 of 2023 challenge the judgment in its entirety; both on the clubbing and the reworking of backlog vacancies and pray for the selection to be carried out as per the advertisement. LPA



No. 890 of 2023 and LPA No. 1007 of 2023, challenge the judgment as wholly erroneous and seek quashing the advertisement for a proper determination of backlog vacancies, but, support the State insofar as the challenge against clubbing of vacancies. The appeals were placed before us along with two writ petitions (CWJC Nos. 12518 of 2021 and 14270 of 2021) which challenge the amendment made to the Rules based on which the advertisement is brought out and another writ petition (CWJC No. 1024 of 2024) in challenge of the subsequent exercise carried out by the State to determine the backlog vacancies.

2. The respondents in LPA No. 604 of 2023 and LPA No. 834 of 2023, who were the writ petitioners, support the stand of the State; asserting that clubbing of vacancies in the various Universities is not provided under the Bihar State Universities Act, 1976 (hereinafter referred to as the 'Universities Act') and support the impugned judgment on all other aspects. In LPA No. 832 of 2023, LPA No. 833 of 2023 and LPA No. 835 of 2023, respondents fully support the judgment of the learned Single Judge. In LPA No. 836 of 2023 none appears for the respondent despite service of notice having been carried out.



3. Shri P.K. Shahi, learned Advocate General, argued on behalf of the State and pointed out that he had been appearing for the petitioners before the learned Single Judge, but has taken consent from them to appear in the appeals since the appointments are delayed and the contentions raised have ramifications insofar as the reservation in appointments to the Universities within the State. None of the learned counsel appearing for either party objected to the learned Advocate General appearing for the State.

4. Shri Shahi pointed out that the very challenge to the advertisement was on the ground that the reservations were in excess of 50% in certain subjects; which was sought to be explained as backlog vacancies. The advertisements were issued subject-wise and university-wise since the sanctioned posts for which prior approval has to be obtained by the State Government, is given subject-wise. Out of the 52 subjects, in 26 subjects appointments have been made. There was a total of 4638 vacancies advertised, out of which 461 candidates have been appointed. The learned Single Judge had specifically observed, while directing the re-working of backlog vacancies and also the reservations, after clubbing the entire vacancies advertised; that the persons already appointed would not be



disturbed and they would be set off against either the backlog vacancies as per the reservation vacancies worked out and then, in the reservation vacancies of the instant selection. It was pointed out that in Para-30 of the impugned judgment, the learned Single Judge had observed that the provisions of the Universities Act provide for treating all the Universities as a collective unit of selection; which is erroneous. It is pointed out from the Universities Act that Section 33 speaks of establishment of a University and sub-section (3) specifically provides that each University shall have a perpetual succession, a common seal and shall sue and be sued by their names. Section 7 confers power on the Vice-Chancellor to appoint the officers to the Universities and Section 57 speaks of appointments of teachers to the Universities. Sub-clause (iv) & (v) of Section 57(1) are referred, to emphasize that the subject-wise vacancies along with the reservation roster has to be forwarded to the Commission by the Universities and hence, each of the said Universities, in which the vacancies arise, not only forwards the number of vacancies but also determines the roster for reservation. There is absolutely no provision available in the Universities Act to club the vacancies in all the Universities and treat the various Universities established under



Section 3(1) to be a collective selection unit. The advertisement also prescribes for subject-wise and University-wise reservation with option given to the candidates to prefer a University, which would be granted only on the basis of the merit either on the general category or in the reservation category.

5. Shri Harsh Singh, learned Counsel appearing for the Commission and Shri Janardan Singh, learned Senior Counsel appearing for the Chancellor fully supports the appeals of the State.

6. Shri Amresh Kumar Singh, learned Counsel, who appears for the 1<sup>st</sup> respondent in LPA No. 832 of 2023 took us through Section 57, to argue that there is no reference to the separate Universities and what is implied by the plural term used, is to deem all the Universities established under the Act to be a collective unit to which a common selection is conducted. The advertisement also further fortifies the above understanding of the provisions of the enactment. Reference is made specifically to Para-39 of the impugned judgment to point out the frustration of the reservation, as is available to the 1<sup>st</sup> respondent, who is entitled to be considered for the horizontal reservation of 2% enabled to the children of freedom fighters. If subject-wise reservations are made or university-wise, then such



horizontal reservation would never be taken up and in that circumstance, it should be the collective vacancies of the Universities that are to be considered to determine the roster.

7. The learned Advocate General immediately countered pointing out that the mere chances of a candidate not being considered for a horizontal reservation, cannot be a reason to strike down an advertisement brought out in accordance with the enactment regulating selection; which is only a ground of undue hardship. The learned Counsel responds that it is not a case of a mere undue hardship but an instance of rendering the very horizontal reservation otiose. The learned Counsel would rely on *N.T Bevin Katti v. Karnataka Public Service Commission; AIR 1990 SC 1233* to argue that the reservation has to be carried out in accordance with the extant rules and regulations and the terms of the advertisement. *State of Bihar & Ors. v M.S.E.S.K.K. Mahasangh & Ors.; 2005 (1) PLJR 464 (SC)* is relied upon to contend that the State having issued an advertisement under a reservation policy cannot resile from its stand.

8. Shri Prashant Sinha, learned Counsel adopts the arguments raised against the State's appeal and further refers to Para-30 of the impugned judgment to argue that the learned



Single Judge had correctly found that the details were called for from the Universities only to know the number of posts available and the Commission was obliged to combine posts available in every University. It was also pointed out that the learned Single Judge has relied on *R.K. Sabharwal & Ors. v. State of Punjab & Ors.; (1995) 2 SCC 745* to find the backlog vacancies as projected by the State to have been not correctly arrived at.

9. Shri Abhinav Shrivastava, learned Counsel, appearing in LPA No. 622 of 2023 seeks to challenge the judgment of the learned Single Judge in its entirety. It is pointed out that there are two enactments within the State regulating the Universities, one, the State University Act and the other, the Patna University Act; the second of which is concerned with only one University, which has only constituent colleges. Insofar as the State Universities are concerned, they have constituent colleges and affiliated ones. Section 3 is specifically pointed out to contend that the Universities are separate body corporates and have a common seal with perpetual succession. It is also pointed out from the 12 Universities as seen established under Section 3(1), that they have been established to operate within the specific jurisdiction which goes as per the Revenue



Divisions created, one Division including more than one District. Reference is also made to Section 3(h) and (i), wherein the two Universities established have a State-wide jurisdiction. It is pointed out that Section 2(y), definition of University is individual specific and the employment of the term 'Universities', is only since the functions and duties of all the Universities fall under a common thread and it is not to deem all the Universities established as one single unit of selection or to make it one single entity. The authorities of the Universities, as provided under Section 17 and the power conferred on the Vice-Chancellor, under the State Universities Act is to make appointments of the officers of the Universities, which further fortifies the submission of the State that each University is an independent entity for all purposes including that of selection and appointment. The posts are sanctioned subject-wise looking at the number of students in each subject, to maintain a healthy student-teacher ratio.

10. A distinction is pointed out, between the Patna University and the State Universities. In the former, the VC has to carry out the instructions of the Syndicate as per Section 11(9) and Section 56 mandates that the VC is the appointing authority of the teachers. Under the Universities Act, Section 57



requires the University itself, to appoint the teachers and the VC has only power to appoint officers and non-teaching staff in the Universities and its colleges. Section 57 was read in its entirety to point out the scheme of appointment under the State Universities Act which treats each University as a separate unit for the purpose of selection. Only when the common requirements are mentioned, the plural is used and otherwise the singular. Section 57(1)(iii) mandates calling for subject-wise applications for appointment to the post of teachers, and sub-clause (iv) speaks of vacancies which are to be identified subject-wise and the roster also is to be prepared by the individual University.

11. The appointments will have to be made by the University on the recommendations of the Commission as per sub-clause (6). The recommendations made by the Commission is on the basis of the comparative merit and the option exercised *qua* a University and with reference to the provisions of Bihar Reservation Act, 1991. The proviso to Section 4(1) stipulates that backlog vacancies are not to be included in the 50% limit of reservations of a recruitment year. It is pointed out that if the advertisement is found to be proper and in accordance with the statute; which is challenged by way of a separate writ petition,



necessarily the reservation made therein has to be reckoned, which includes the backlog vacancies. The counter affidavits of the various Universities were pointed out to specify that the Universities had reckoned the roster in accordance with the Bihar Reservation Act, and determined the backlog vacancies which cannot be challenged. It is pointed out that the earlier recruitments occurred in the year 1997, 2003, 2014 and the present recruitment is of the year 2020. Even as per the provisions of the Reservation Act, the backlog vacancies have to be carried over for three selection years. The present exercise carried out by the State on the basis of the directions of the learned Single Judge cannot be sustained since the earlier exercise of determining the roster points and the backlog vacancies existing for filling up reservation posts was an exercise carried out by the respective Universities and approved by the Divisional Commissioner of the State. The said determination of roster points and the backlog of reservation vacancies was in accordance with the judgment of the Hon'ble Supreme Court in ***R.K. Sabharwal*** (supra).

12. The earlier treatment of 25% of the vacancies as backlog in the year 2014 was definitely a wrong exercise based on which there can be no interference to the present selection.



The contention of the appellants herein is that if the Statute, which has been challenged in a separate proceeding, is upheld, then necessarily the advertisement as issued originally has to be proceeded with. The findings of the learned Single Judge are without any basis and are totally erroneous and in violation of the provisions of the Reservation Act as also general principles of reservation as laid down by the Hon'ble Supreme Court.

13. Shri Satyam Shivam Sundaram, learned Counsel appearing in LPA 890 of 2023 and LPA No. 1007 of 2023 referred to the counter affidavit of the State and relied on the decision in ***R.K. Sabharwal*** (*supra*) to contest the determination of reservation in the present instance also as erroneous. The backlog vacancies as discernible from the counter affidavit have been identified on the basis of the classification of the existing employees as general and reserved categories which is an improper exercise. The learned counsel would also point out that on 14.07.2021, an interim order was passed by the learned Single Judge which specifically provided that any action taken by the respondents would be subject to the result of the writ petition. After that, 172 persons were appointed and then on 20.12.2022, a stay on further appointments was made. The writ petition was disposed of directing the reworking of the



reservation roster and identification of the backlog vacancies, but the selection made by the Commission till then was directed to be not disturbed. It is argued that the learned Single Judge was not justified in issuing such directions, especially when there was a stay of further appointments. After the disposal of the writ petition, 289 persons were appointed on the premise that their selections were concluded by the Commission prior to 20.12.2022; clearly a wrong interpretation of the protection granted. The protection itself was not justified since it would lead to an anomalous situation of the appointments being made partly, as per the earlier identification of backlog vacancies and then as per the reworked backlog vacancies. It is pointed out that the unreserved category candidates have challenged the subsequent reworking of the reservation roster which writ petition is also pending before this Division Bench and tagged along with these appeals. The learned Counsel all the same, fully supports the contention of the State against the clubbing of vacancies, as directed in the impugned judgment.

14. The writ petitions are filed by various categories of candidates and challenge the reservation provided for in the advertisement from different angles. C.W.J.C. No.8932 of 2020 from which arise L.P.A. Nos. 604, 622, 890 and 1007 of 2023



challenge the advertisement dated 21.09.2020 and seek re-working of the vacancies and the alleged breach of 50% limit in reservations. The backlog vacancies; according to the petitioners, who are guest teachers in the various colleges and from the unreserved category, has not been correctly determined. C.W.J.C. No. 5853 of 2021 from which arise L.P.A. No. 832 of 2023 and C.W.J.C. No. 226 of 2023 from which arise L.P.A. No. 836 of 2023 have been filed by persons eligible to apply under the horizontal reservation of 2% set apart for grandchildren of freedom fighters; the former in the subject of Home Science and the latter in the subject of Psychology. C.W.J.C. No. 1704 of 2022 from which arises L.P.A. No. 833 of 2023 ventilates the claims of persons with disabilities; again a horizontal reservation the sole petitioner therein being concerned with the reservation of post in Environmental Science. C.W.J.C. No. 433 of 2021 from which arises L.P.A. No. 834 of 2023 challenge the advertisement and the prescription of reservation as being, in violation of the reservation policy of the State. The 10 petitioners therein seek selection afresh to the existing and future vacancies providing for reservations in accordance with the Reservation Act, 1991 including the 10% eligibility for Economically Weaker Sections (EWS). C.W.J.C.



No. 817 of 2020 from which arises L.P.A. 835 of 2023 is filed by 5 petitioners from the reserved category who are continuing as guest lecturers. It is alleged in the said writ petition that the roster points have not been properly determined, the age relaxation for OBC, MBC and SC cannot be common and has to be different and claim inclusion of left out vacancies by identifying the vacancies on the basis of the student strength.

15. The learned Single Judge, at the outset, noticed that out of a total 4638 posts of Assistant Professors, only 1223 have been made available to the general/open category, which has given rise to the present litigation; alleging breach of the 50% limit. The argument of the Commission was that each University was treated as a unit and the roster points were applied at the University level for each subject. The list of posts is provided to the Commission as available in each category for the various subjects from the different Universities. The backlog vacancies were also identified university-wise by the Universities and the roster point was allocated treating each University as a separate unit. The earlier selection was in the year 2014 when the State Government had passed a resolution determining 75% of the total vacancies requisitioned by the Universities to be filled up subject wise as current vacancies and



25% kept pending as backlog for the purpose of filling up later.

16. The learned Single Judge found that the recruitment agency had to separately earmark backlog vacancies as a separate class and the fresh vacancies shown separately. Reckoning the resolution of the year 2014, the impugned judgment found that 25% vacancies set apart for filling up later and those earlier not filled up from the reserved category have to be included to determine the backlog vacancies for the present year. It was found that in determining the backlog vacancies, it was essential for the respondents to first identify the Assistant Professors appointed on the basis of merit, both in the general category and also from the reserved category. Only then could be identified; the exact backlog vacancies of the reservation category. Mere identification of existing Assistant Professors belonging to the reserved category would not be a correct assessment of backlog vacancies. It was also observed that the respondents were unable to explain how the Universities were treated as a separate selection unit when the University Act provides for conducting a selection for all the Universities by a common advertisement and a common examination. All posts existing in the various Universities were directed to be counted together as one unit for the purpose of application of roster. The



learned Single Judge thus directed re-working of the reservation by specifically identifying the backlog vacancies and also taking the entire number of vacancies as an appointment to a single unit for the purpose of determining the roster points. The selections already made and concluded were directed to be adjusted either in the backlog vacancies or in the roster points of the instant selection year, so as to not disturb them. If additional candidates are to be called, based on the clubbing of vacancies in all the Universities, then the additional candidates should be called for and interviewed before the appointments are carried out.

17. The State has filed 5 appeals, all of which confine itself to the clubbing of the vacancies as directed by the learned Single Judge. It is conceded by the State that there was flaw in determining the backlog vacancies which has now been cured, which is also said to have been challenged in a writ petition, which were posted along with the present batch. We would first deal with the contention against clubbing of vacancies, which was directed at paragraph 30 of the impugned judgment which is extracted herein below: -

*“30. The respondents have also not been able to explain as to how the reservation has been applied treating University as a unit when the University Act provides for conducting a selection for all the Universities by a common advertisement and a*



*common examination. Therefore, all the posts existing in the various Universities will have to be counted together as one unit for the purpose of application of the roster. If a different interpretation as taken by the respondents is accepted, it would result in variation of the number of posts available in a particular University of O.C. Class viz-a-viz Reserved Class. The details from all the Universities were only required for knowing the number of posts available for recruitment of Assistant Professors in a particular subject, whereafter, the respondents were required to add all the posts of various Universities in a particular subject together and apply to the roster. Backlog posts were also required to be identified accordingly.*

*The said horizontal and vertical reservation has to be applied to the total number of posts in a particular subject and cannot be applied segregating the post available in a particular University of a particular subject. As has come on record, there are Universities which only require 1 post in a subject while in other University, there are posts for the same subject which is more than 50 or 100. The Reserved Category and Open Category candidates should be distributed almost equally to all the Universities and the same could be only applicable if the quota is applied to all the number of posts in a subject which may be filled in a particular University or several Universities.”*

18. The learned Advocate General had asserted that contrary to what has been observed by the learned Single Judge, there is no provision in the Universities Act to club the vacancies in all the universities, though there could be a common advertisement and a common examination for selection and appointments of teachers to the universities; who are to make a requisition individually and separately. The provisions of the Act were elaborately read over to impress upon



us that the above extracted finding is erroneous.

19. Section 2(y) of the Universities Act (the provisions from which are hereinafter noticed for the purpose of answering the above contention) defines the University as the University established and incorporated under Section 3 of the Act. Section 3 speaks of establishment and incorporation of Universities and gives a list of Universities which are established from the date of commencement of this Act. The various Universities established under the Act are referred by their name in clause (a) to (l) together with their territorial jurisdiction specified on the basis of the various revenue divisions within the State of Bihar; except clause (h) and (i) which are respectively a Sanskrit University and an Arabic & Persian University, both of which have a state-wide jurisdiction. Section 3(2) provides that the Chancellor, Vice-Chancellor, the Senate, Syndicate and the Academic Council together; both the first of such Officers or Members and any such member thereinafter holding such office, shall together constitute a body corporate by the name of the University, specified in sub-section (1). Section 3(3) mandates that the Universities shall have perpetual succession with common seal and shall sue and be sued by the said name. The definition clause read with the



provision which list out the Universities established under the Act makes it crystal clear that the various Universities are separate entities each with a common seal and a perpetual succession. The Chancellor, Vice-Chancellor, the Senate, the Syndicate and the Academic Council together constitute a body corporate which is known by the name of the particular University. There cannot be formed any clubbing of the Universities.

20. Now, we come to Section 57 of the State Universities Act which; both the supporters of the impugned judgment and the detractors rely on. At the outset, we have to notice that the plural term used: 'Universities', in the said provision does not at all indicate that for the purpose of selection and appointment, the Universities are considered to be a single unit. The functions and duties of the Universities and also the mode of appointment are delineated in the enactment which deals with a number of Universities, as established under that enactment. These functions and duties as also the modes of appointment are similar and identical. When it comes to appointments, there is a Commission called the Bihar State Universities Commission constituted for carrying out selection to the post of teachers in the various Universities and its



constituent and affiliated colleges. The nominal heading of Section 57 which reads as: ‘Appointment to the post of teachers in Universities and Constituent Colleges’; only indicates that there is an identical procedure contemplated, which has to be followed by all the Universities established under the Act.

21. Clause (ii) of Section 57(1) empowers the Commission on the recommendation of the State Government to organize the State Eligibility Test; which provision is not relevant to the present litigation. Clause (iii) of Section 57(1) obliges the Commission to call for applications for appointment to the post of teachers (Assistant Professors) in the Universities and their constituent colleges only from such candidates who have passed the National Eligibility Test (NET) or the State Eligibility Test (SET) and obtained minimum qualifications prescribed by the University Grants Commission Regulations, 2010.

22. Sub-clause (iv) of Section 57(1) requires the subject-wise vacancies including the presumed vacancies of the next calendar year along with reservation roster to be forwarded to the Commission by the Universities; up to 31<sup>st</sup> December every year. Pausing here, we cannot but observe, that the above provisions answer the contention raised of all future vacancies



to be included, as raised in one of the writ petitions. We reject it immediately, since there is a restriction in reporting only the anticipated vacancies of one succeeding calendar year. Further, sub-clause (iii) and (iv) together read, clearly indicates that it is for the individual Universities to determine the subject wise vacancies including the anticipated ones for the next calendar year and forward it to the Commission along with the reservation roster. This makes it clear that it is for the individual Universities to determine roster, which would depend upon the number of posts available in the University, also dependent on the student strength based on which the number of posts are sanctioned by the State Government. If the Universities were treated as one single unit, the Universities would have been obliged only to report the vacancies and the roster points would have been fixed by the Commission.

23. The duties of the Commission and the Universities are clearly demarcated in the above provisions. While the University furnishes the number of vacancies as also the reservation roster, it is for the Commission to call for applications to the posts by a common advertisement; as reported by the various Universities, conduct a selection, prepare a list of selected candidates and allot them to the various



Universities based on merit, the reservation roster; prepared by the University and the option exercised by the candidates. The dichotomy insofar as the selection and appointment is concerned, is further fortified by clause (v) of Section 57(1) which mandates that the Universities shall make appointments to the post of teachers, only on the recommendation of the Commission and not at all otherwise.

24. Clause (vi) obliges the Commission, after the selection to prepare a subject-wise merit list against the vacancies communicated by the University, on the basis of the interview from among the candidates who applied, under clause (iii). The subject-wise list should contain double the number of vacancies, but the Commission should forward only one name at a time to the University for appointment against a vacancy. The proviso to clause (vi) also obliges the Commission to recommend the names to the University in the order of merit and on the basis of reservation roster sent by the University in conformity with the reservation policy of the State as discernible from the affirmative action brought out by the State by way of legislation or otherwise. It also obliges the Commission to consider the option; for a particular University, exercised by the candidate, which has to concede again to the



merit of the respective candidates.

25. The learned Counsel who supported the combining of vacancies as directed in the impugned judgment were not able to point out any provision in the Universities Act which deems the vacancies in all the Universities to be clubbed together for the purpose of selection and roster clearance. As we noticed from Section 57, not every University may have a vacancy in every subject, in a particular selection year and some Universities may not have any vacancies arising in a particular year or the succeeding one. The selection process only is common; more by reason of a State Universities Commission having been constituted to carry out such selections. The Universities which have a common seal and perpetual succession and who are treated as distinct body corporates; retain their individual status in determining vacancies, along with the reservation roster and forwarding the same to the Commission for the purpose of selection. The mere fact that a common selection is carried out by an independent body; a Commission constituted by the State to ensure fairness, transparency and eschew any allegation of nepotism, it cannot be said that the entire vacancies of all the Universities in a selection year should be considered as one unit for the purpose



of determining reservation. This would also bring in gross inequities compromising merit, denying reservation in one University or the other and also in one subject or the other.

26. Looking at the statutory provisions, we find it difficult to uphold the judgment of the learned Single Judge to the extent it directs clubbing of vacancies of all the Universities for the purpose of preparing the reservation roster. In fact, the method coming out of the provisions is clearly to the contrary. We hence find paragraph 30 as extracted hereinabove to be clearly erroneous and not in conformity with the statutory provisions.

27. A glance at the advertisement produced along with the writ petitions also would indicate that the Bihar State Universities Service Commission had called for regular appointment to the vacant posts of Assistant Professors in different Universities and constituent colleges through on-line applications. Therein the subject-wise and university-wise, vacant posts and number of reservation vacancies were also specified. The advertisement was fully in consonance with the Reservation Act. *N.T. Bevin Katti* (supra) as relied on by some of the respondents, according to us, have no application. The learned counsel had specifically referred to paragraph 11 which



considers the issue as to whether a candidate who applied under an advertisement, which is also brought out in accordance with the existing rules or Government orders and further indicates the extent of reservation, again as per the existing rules, whether would confer a vested right on the applicant to be considered for selection after having undergone the process of a written test and viva-voce test. The Hon'ble Supreme Court held that generally such a candidate would have a right to be considered in accordance with the terms and conditions set out in the advertisement as his right crystallizes on the date of publication of advertisement. However, it was specifically observed that no candidate has such an absolute right and, if the recruitment rules are amended retrospectively during the pendency of selection, then, the selection would have to be re-done in accordance with the amended rules. We also do not find any application of the decision relied on as reported in **2005 (1) PLJR 464 (SC)**.

28. Now we come to the issue of backlog vacancies, which is said to be the reason for more than 50% of the vacancies advertised being conceded to the reserved categories. We have to immediately notice that the tabular columns in the advertisement which specify the vacancies and reserved posts, subject-wise and university-wise does not clearly demarcate the



backlog vacancies. Admittedly, out of the total vacancies, there is more than 50% reserved for the identified categories under the Reservation Act, 1991. The State has also conceded that there was no determination of the backlog vacancies, as is properly required.

29. The appellant in L.P.A. No. 622 of 2023 asserted that the Universities have correctly applied the reservation and determined the backlog vacancies especially referring to the counter affidavits filed by the Universities; producing such identification, which also has been approved by the Divisional Commissioners. One of the counter affidavits specifically referred to, is of the 18<sup>th</sup> respondent in C.W.J.C. No.8932 of 2020; the Tilka Manjhi University, Bhagalpur. The reliance placed is on Annexure-A resolution of the State Government received at the University on 28.02.2020. Annexure-B is a covering letter of the University by which the category wise statement of vacant posts as approved by the office of the Divisional Commissioner; Bhagalpur was forwarded to the Education Department. The roster has also been prepared based on the communication issued by the Administrative Department, Government of Bihar produced as Annexure-C dated 26.02.2019.



30. Annexure-A is the proceedings of the training organized through video conferencing in relation to the roster clearance for appointment to the post of Assistant Professor in State Universities. The officials of the Education Department and the General Administration Department and the Registrars of the Universities were present. It was noticed in Paragraph 3 that in Patliputra University, as per the information of the Secretary of the Divisional Commissioner, Patna, sanctioned posts were calculated on the basis of rationalization and reservation; category wise of the teachers working against the sanctioned posts. Such a computation resulted in most of the vacancies in the Patliputra University being shown as backlog vacancies; which was objected to by the Secretary of the Divisional Commissioner. The Officer of the General Administration Department informed that the post in the new Universities were those inherited from the parent Universities and in that circumstance a new register had to be prepared. It was directed that first of all the category wise names of the currently working teachers is to be taken and during roster clearance for appointments, the backlog would be calculated first on the basis of the working strength by identifying the backlog vacancy in any category. It was clarified that if 20 posts



were filled up then action would be initiated from roster point 21. It was also clarified that a new roster register can be maintained with approval of the employer i.e. the Vice Chancellor of the concerned University. The question raised as to whether roster clearance should be made by considering the entire University as one unit did not find favour and it was clarified that the vacancies have to be identified in one subject of the entire University and the affiliated colleges operating under its control. Separate register had to be maintained for each subject and the roster clearance has to be made by considering the subject wise roster in each of the departments.

31. Learned counsel for the appellant in LPA No. 1007 of 2023 specifically pointed out from the supplementary counter affidavit filed by the appellant dated 30.08.2023 that the roster clearance carried out is not justified; which is validated by the specific contention taken by the Government in its counter affidavit. The learned counsel had also specifically referred to the counter affidavit of the Respondent Nos. 1 to 3 dated 12.10.2023 filed in LPA No. 1007 of 2023. The counter affidavit by an illustration indicates how the roster clearance was carried out. The illustration is specifically with respect to the subject of Maithili in Lalit Narayan Mithila University, Darbhanga. The



total sanctioned posts were 54 and the 50 per cent limit requires reservation to be restricted to 27. The total number of working strength was 37 out of which 24 persons were from the unreserved category and 13 persons from the reserved category. To maintain the percentage of 50 per cent, 11 vacancies were earmarked as backlog vacancy. If that is filled, then the working strength would be 24 from the unreserved and 24 from the reserved category is the reasoning. The total number of vacancies available were; 17 (54-37). Out of these 17 vacancies, 11 posts were earmarked as backlog vacancies which resulted in the remaining vacancies coming to six. The existing vacancies were divided by half and three vacancies were considered to be that kept for merit and three vacancies for the reserved category. Hence, out of the 17 vacancies existing, 11 were determined as backlog, 3 were reserved vacancies for the current selection and 3 for unreserved category.

32. The fundamental flaw in the aforesaid computation is that it merely takes the working strength of reserved category persons and categorize them as appointed under the reservation category. This is not the principle on which reservation has to be carried out since any reserved category candidate coming high up in merit will have to be



adjusted in the open category vacancies itself. There is no mandate that the open category vacancies should be filled up by only the unreserved category of candidates which is the binding declaration in ***R.K. Sabharwal*** (supra).

33. It was categorically held in ***R.K. Sabharwal*** (supra) that the number of reserved category candidates appointed/promoted in non-reserved posts as a result of computation, cannot be taken into account to work out the prescribed percentage of reservation. The reservation points indicated in the roster, still are to be filled up exclusively from reserved category candidates. Hence, if the first vacancy available is for the open category and the second vacancy is for a reserved category; if the candidate from that reservation category comes first in merit, then he or she has to be given the first vacancy in the open merit category. The next vacancy reserved for a category/class would have to be filled up from that class itself who figures next in the merit; sidelining the open category candidate.

34. We extract hereunder paragraph 4 from ***R.K. Sabharwal*** (supra):-

*“4. When a percentage of reservation is fixed in respect of a particular cadre and the roster indicates the reserve points, it has to be taken that the posts shown at the reserve points are to*



*be filled from amongst the members of reserve categories and the candidates belonging to the general category are not entitled to be considered for the reserved posts. On the other hand the reserve category candidates can compete for the non-reserve posts and in the event of their appointment to the said posts their number cannot be added and taken into consideration for working out the percentage of reservation. Article 16(4) of the Constitution of India permits the State Government to make any provision for the reservation of appointments or posts in favour of any Backward Class of citizens which, in the opinion of the State is not adequately represented in the Services under the State. It is, therefore, incumbent on the State Government to reach a conclusion that the Backward Class/Classes for which the reservation is made is not adequately represented in the State Services. While doing so the State Government may take the total population of a particular Backward Class and its representation in the State Services. When the State Government after doing the necessary exercise makes the reservation and provides the extent of percentage of posts to be reserved for the said Backward Class then the percentage has to be followed strictly. The prescribed percentage cannot be varied or changed simply because some of the members of the Backward Class have already been appointed/promoted against the general seats. As mentioned above the roster point which is reserved for a Backward Class has to be filled by way of appointment/promotion of the member of the said class. No general category candidate can be appointed against a slot in the roster which is reserved for the Backward Class. The fact that considerable number of members of a Backward Class have been appointed/promoted against general seats in the State Services may be a relevant factor for the State Government to review the question of continuing reservation for the said class but so long as the*



*instructions/rules providing certain percentage of reservations for the Backward Classes are operative the same have to be followed. Despite any number of appointees/promotees belonging to the Backward Classes against the general category posts the given percentage has to be provided in addition. We, therefore, see no force in the first contention raised by the learned counsel and reject the same.”*

35. In the context of the above binding declaration, we are of the opinion that the interference caused to the determination of backlog vacancies by the learned Single Judge is to be sustained; though not strictly on the reasoning provided in the impugned judgment, but on that provided herein. We do not see any separate backlog vacancies having been specified in the advertisement itself. We also find that even as per the counter affidavit of the State, a flawed computation was made. If at all backlog has to be determined from the existing vacancies then at least for the past three recruitment years the application of reservation has to be looked into to find whether the reserved category teachers included in the working strength were appointed on merit or as a reserved candidate.

36. What remains is the protection afforded to the teachers who have been already appointed. True there was a stay of further appointments, after which some were carried out on the basis of the recommendation of the Commission having



been issued prior to that. But the learned Single Judge has merely protected their right to be adjusted in the reservation vacancies; either backlog or the extant ones, which is only a statement of the obvious. If they do not qualify necessarily, as per the new roster, either on merit or in the reservation category, they would be sent out.

37. CWJC Nos. 12518 of 2021 and CWJC No. 14270 of 2021, wherein the amended regulations of the State were challenged, are closed by us today, by a separate order. In CWJC No. 1024 of 2024, the challenge is to the reservation roster prepared after the remand made by the learned Single Judge. We have directed the said writ petition to be posted before the learned Single Judge having roster, for consideration.

38. We cannot but observe, with some anguish, that due to the challenge made to the entire advertisement by a handful of applicants, the filling up of more than 4,000 vacancies have been stalled for almost four years. General contentions were raised as to the excess of the limit prescribed for reservation and the backlog vacancies having not been determined. In fact, the challenge is made by the various applicants who are entitled to be considered only to a specific subject/post. The reservation roster is prepared University-wise



and subject-wise and in that circumstance an advertisement ought to be challenged by a person offering his candidature for a subject only with respect to that subject in the particular University/Universities. We have noticed the challenge made by some of the applicants with reference to their specific subjects. We find that the circumstance of one horizontal or vertical reservation not coming up for appointment in the present recruitment would not vitiate the entire recruitment. We make these observations specifically with reference to the plea made as against the reservation for persons with disabilities and grandchildren of freedom fighters.

39. Be that as it may, we have considered the two general issues raised before us and have found that there is no question of combining the vacancies in all Universities for preparation of reservation roster and the direction so to do, by the learned Single Judge, stands set aside. In so far as the preparation of the reservation roster separately, it has to go by the University-wise, subject-wise roster preparation. While the direction to re-work the reservation is upheld, finding the determination of backlog vacancies as per the impugned advertisement to be flawed, we direct that it be done subject-wise, University-wise.



40. The learned Advocate General submits that this is the exercise carried out which has been challenged in CWJC No. 1024 of 2024; on which we make no comment since it has been remanded to the learned Single Judge having roster.

41. We hence allow the appeals of the State and partly dismiss LPA No. 622 of 2023 and allow LPA No. 890 of 2023 and LPA No. 1007 of 2023.

42. Ordered accordingly.

43. The parties left to suffer their respective costs.

**(K. Vinod Chandran, CJ)**

**Harish Kumar, J:** I agree

**(Harish Kumar, J)**

sujit/Anushka/  
Sharun/PKP.

AFR/NAFR	
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