

ITEM NO.5 + 52

COURT NO.5

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

I.A. 16-21/2015 in Petition(s) for Special Leave to Appeal (C)  
No(s). 10163-10165/2015

(Arising out of impugned final judgment and order dated 10/11/2014  
in CWJC No. 14677/2009, 10/11/2014 in CWJC No. 10226/2010, 10/11/2014  
in CWJC No. 7508/2011 passed by the High Court Of Patna)

GOVT. OF BIHAR AND ORS. ETC ETC

Petitioner(s)

VERSUS

DAYANAND SINGH ETC. ETC.

Respondent(s)

(for directions and office report)

I.A.No.22-23 (Appln. For impleadment as party respondent and  
exemption from filing O.T.)

WITH

I.A. NOS.15-16 IN SLP(C) No. 14625-14626/2015

(With appln.(s) for clarification/modification of court's order and  
Office Report)

I.A.No.28,29,30 &amp; 31/2015 in SLP(C)No.11365/2015

(For placing addl. Facts and documents on record, exemption from  
filing O.T., directions and office report)

Date : 04/12/2015 These applications were called on for hearing  
today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s) Mr. P.S. Patwalia, ASG  
Mr. Rudreshwar Singh, Adv.  
Mr. Samir Ali Khan, Adv.

Mr. Saket Singh, Adv.  
Mr. D.K. Devesh, Adv.  
Mr. S.K. Roshan, Adv.  
Mr. Ritesh Khatri, Adv.

Mr. Ajit Akumar Sinha, Sr. Adv.  
Mr. Maurya Vijay Chandra, Adv.  
Mr. Prem Prakash, Adv.  
Mr. Anshul Narayan, Adv.

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For Respondent(s) Mr. Navin Prakash, Adv.

Mr. Yadav Narender Singh, Adv.

(Patna High Court) Mr. Amrendra Sharan, Sr. Adv.

Mr. Pravin H. Parekh, Sr. Adv.

Mr. Kshatrshal Raj, Adv.

Mr. Abhishek Vinod Deshmukh, Adv.

For M/s. Parekh & Co., Adv.

For Applicant (s)

(I.A.No.30 & 31 in Mr. Devendra Kumar Shukla, Adv.

SLPC)11365/2015 Mr. Rajiv Ranjan Diwedi, Adv.

Mr. Animesh Upadhyay, Adv.

(I.A.No.20 & 21 in Mr. Sanjay Kumar Dubey, Adv.

SLPC)10163/2015 Mr. Rakesh Kumar Tewari, Adv.

UPON hearing the counsel the Court made the following

#### O R D E R

Issue notice in I.A.No.30/2015 in SLP(C)No.11365/2015.

Four weeks' time is granted to the learned counsel for the respondent-High Court to file reply to the I.A.No.28-29/2015.

The dispute in the Special Leave Petition is regarding the reservations in favour of certain constitutionally protected class in the Bihar Subordinate Judicial Service.

The State made rules under Article 309 of the Constitution of India providing reservation of posts in favour various of constitutionally protected segments upto 50%. The said decision of the State was struck down by the High Court by an order dated 10.11.2014 which is the subject matter of the instant SLPs. It appears that apart from the judicial order, the High Court of Patna on the administrative side, took a decision to provide reservation to these various constitutionall protected class, at lower percentage than what is provided under the Rules mentioned above.

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By order dated 11.5.2015, this Court made an ad-hoc arrangement regarding the appointment of certain posts which had already advertised and the recruitment process taking place.

The Patna High Court in the instant application (I.A.No.16-18/2015 in SLP(C)No.10163-10165/2015) prays as follows:

"(a) Pass an order directing the State Government to immediately initiate the recruitment process in the Cadre of Civil Judge (Junior Division) for 206 vacancies as per the existing Rules;

(b) Pass such other order or further orders/directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of this case and in the interest of justice."

Heard Mr P.S. Patwalia, learned Additional Solicitor General appearing on behalf of the State of Bihar and Mr. Amrendra Sharan, learned senior counsel appearing on behalf of the Patna High Court.

In view of the fact that a large number of vacancies numbering 206 in the cadre of Civil Judge, Junior Division are lying vacant in the State of Bihar, we do not consider it desirable keeping them vacant for a long time, we deem it fit that the SLPs itself be listed on 14<sup>th</sup> January, 2016 for hearing as directed earlier by this Court. We also deem it appropriate to direct the State to initiate the recruitment process for the above mentioned posts. The process obviously takes time. The question as to what exactly is the permissible percentage for each of the classes can be determined at the time of hearing of the SLPs. For that purpose, the recruitment process need not be held up.

The State while inviting application may call upon the applicants to indicate their social status, if anyone of the applicants is claiming reservation in any one of the categories to which the reservation is available. However, we make it clear that no party shall claim any equity at the time of hearing by virtue of these interim orders.

Accordingly, I.A.NO.16-18/2015 in SLP(C) No.10163-10165 of 2015 stand disposed of. Application (I.A.NO.19-21/2015 in SLP(C) No.10163-10165/2015) for exemption from filing official translation is allowed.

List the SLPs alongwith the remaining IAs for hearing on 14<sup>th</sup> January, 2016 on the top of the Board subject to overnight part heard matter.

[O.P. SHARMA]  
AR-cum-PS

[INDU BALA KAPUR]  
COURT MASTER