

Patna High Court strikes down 65% quota in Bihar

The Nitish Kumar Government on November 21 last year issued gazette notifications for raising the quota for deprived castes from 50 to 65%

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Following the caste-based survey report, Nitish Kumar Govt decided to increase the reservation for Backward Classes, Extremely Backward Classes (EBC), Scheduled Castes (SC) and Scheduled Tribes (ST). File | Photo Credit: ANI

The Patna High Court on June 20 set aside the amendments passed by the Bihar legislature in 2023 to increase the reservation Backward Classes (BC), Extremely Backward Classes (EBC), Scheduled Caste (SC) and Scheduled Tribe (ST) from 50% to 65% in educational institutions and government jobs.

A Public Interest Litigation (PIL) petition was filed in the Patna High Court on November 27, 2023, challenging the decision of the Bihar Government to increase reservation in the

State from 50% to 65%.

Following the **caste-based survey report**, the government of Chief Minister Nitish Kumar decided to increase the reservation for Backward Classes, Extremely Backward Classes (EBC), Scheduled Castes (SC) and Scheduled Tribes (ST). The PIL plea has been filed by Gaurav Kumar and others.

In this case, after completing the hearing on the petitions filed by Gaurav Kumar and others, the decision was reserved on March 11, 2024, which was pronounced today. A Division Bench of Chief Justice K.V. Chandran had a long hearing on the petitions of Gaurav Kumar and others.

Advocate General P.K. Shahi argued on behalf of the State Government. He had told the court that the State Government had given this reservation due to a lack of adequate representation of these classes. The State Government had not given this reservation on a proportionate basis.

In these petitions, the law passed by the State Government on November 9, 2023, was challenged. In this, 65% reservation was given to SC, ST, EBC and OBC, while only 35% of posts could be given to general category candidates in government service.

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Advocate Dinu Kumar had told the court in previous hearings that cancelling 10% reservation for EWS (Economically Weaker Sections) in the general category is against Article 14 and Article 15(6)(b) of the Indian Constitution.

Mr. Dinu had said that after the caste survey, this decision of reservation was taken on the basis of the proportion of castes, and not on the basis of adequate representation in government jobs. He had argued that the Supreme Court had imposed a restriction of 50% on the limit of reservation in the Indira Sawhney case. The case of caste survey is currently pending for hearing in the Supreme Court.

In this, the decision of the State Government was challenged in the Supreme Court on the basis that the State Government had increased the limit of reservation in government jobs

from 50% to 65%.

The Bihar Assembly on November 9, 2023, unanimously passed a Bill to increase reservation for Backward Classes, Extremely Backward Classes, Scheduled Castes, and Scheduled Tribes from the existing 50% to 65%.

Together with the 10% Economically Backward Class (EWS) quota, the Bill had pushed reservation in Bihar to 75%, well past the 50% ceiling set by the Supreme Court.

According to the legislation, named the Bihar Reservation Amendment Bill, quota for Extremely Backward Classes (EBC) was raised from the existing 18% to 25%; for Backward Classes (BC) from 12% to 18%; for Scheduled Castes (SC) from 16% to 20%; and for Scheduled Tribes (ST), the quota has been doubled, from 1% to 2%. The existing 3% reservation for BC women has been scrapped.

Governor Rajendra Vishwanath Arlekar approved the Bills on November 18, 2023, followed by the State Government issuing its notification in the gazette on November 21, 2023.

‘Will Bihar Govt appeal to SC?’

Meanwhile, Congress general secretary Jairam Ramesh asked whether the State Govt will now immediately appeal in the Supreme Court against the Patna High Court's order on Bihar's reservation policy.

“The Patna High Court has just struck down an act passed by the Bihar Assembly last year that provided 65% reservation for SC, ST, OBC and OBC categories in government jobs and educational institutions. The High Court said that this was violating the 50% limit set by the Supreme Court. Will the Bihar Government now immediately appeal to the Supreme Court? Will the NDA Government at the Centre put all its effort behind this appeal with seriousness? Will the Parliament get a chance to discuss this issue as soon as possible?” Mr. Ramesh posted the message on his social media X.