

**Court No. - 34**

**Case :-** WRIT - A No. - 4225 of 2022

**Petitioner :-** Pramod Kumar Singh And 5 Others

**Respondent :-** State Of U.P. And 11 Others

**Counsel for Petitioner :-** Ajay Kumar Rai, Alok Mishra, Binod Kumar Mishra

**Counsel for Respondent :-** C.S.C., Siddharth Singhal

**Hon'ble Rajeev Misra, J.**

Heard Mr. Ashok Khare, the learned Senior Counsel assisted by Mr. Alok Mishra, learned counsel for petitioners, the learned Standing Counsel representing respondents-1 and 2 and MR. Siddharth Singhal, the learned counsel representing respondent-3.

Challenge in this writ petition is to the result declared by respondent-3 Secretary/Chairman, Uttar Pradesh Subordinate Services Selection Board on 15.3.2022 (Annexure-5A to the writ petition).

Mr. Ashok Khare, learned Senior Counsel for petitioner contends that as per the advertisement issued in respect of selections for the post of Excise Constable in all 405 posts of Excise Constable were advertised. Reservation applicable to female category falls under the category of horizontal reservation. As such candidates who have found selection without availing the benefit of reservation are also to be included within the percentage of seats reserved for female category. He, therefore, submits that in all eventuality, the total number of selected candidates in female category cannot exceed 81. It is thus contended that the selection of 143 female category candidates for the post so advertised is manifestly illegal.

Learned Standing Counsel representing respondents-1 and 2 and Mr. Siddharth Singhal, learned counsel representing respondent-3 have opposed the present writ petition. However, they could not point out any provision that reservation applicable to female category is not horizontal reservation nor the number of candidates in female category could be beyond 81.

In view of above, matter requires consideration.

Notice on behalf of respondents-1 and 2 has been accepted by learned Standing Counsel. Mr. Siddharth Singhal, has put in

appearance on behalf of respondent-3.

Issue notice to respondents 4 to 12 returnable on 18.7.2022. Steps for service upon respondents 4 to 12 shall be taken in accordance with the Rules of the Court.

All the respondents may file their respective counter affidavits on or before 18.7.2022

Looking into the nature of controversy, matter shall reappear as fresh on 18.7.2022.

As an interim measure, it is provided that appointments on the post of Excise Constable in female category shall stand confined to 81 selected female candidates.

**Order Date :- 26.5.2022**

Arshad