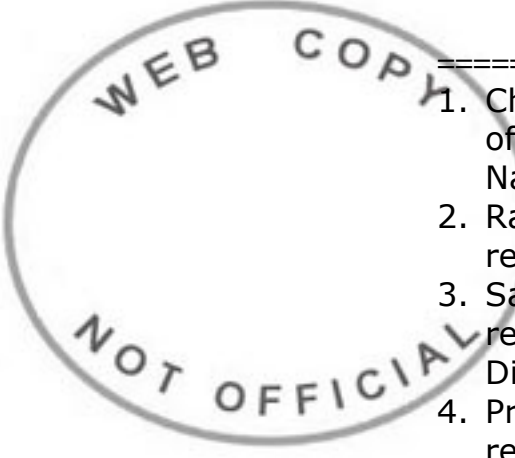


IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1292 of 2014

In

Civil Writ Jurisdiction Case No. 17455 of 2011

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1. Chandra Bhushan Prasad S/o Late Basant Singh resident of Village + P.O. Nagarnausa, P.S. Nagarnausa, District - Nalanda.
 2. Ravi Shekhar Pandey S/o Late Rambriksha Pandey resident of village - Arari, P.S. Sarai, District - Vaishali.
 3. Satish Chandra Prasad S/o Late Baidyanath Prasad resident of village - Pank, Jairampur More, P.S. Barbigha, District - Sheikhpura.
 4. Pratap Kumar Sinha S/o Late Sheo Shankar Prasad resident of Village - Badi Machhua Toli, Near - Danapur Cantt. P.S. Danapur, District - Patna.
 5. Binod Kumar Singh S/o Sri Vishwanath Singh resident of village - Madhe, P.S. Navinagar, District - Aurangabad.
 6. Sunil Kumar Sinha S/o Sri Uma Shankar Prasad resident of village Shahi Niwas, New Colony, Jail Hata, P.S. Daltanganj Town, District - Palamu (Jharkhand).
 7. Samrendra Kumar S/o Late Jhimru Thakur resident of village - Dayalpur, P.O. Jhandapur, P.S. Bihpur, District - Bhagalpur.
 8. Arun Kumar Singh S/o Sri Rajendra Prasad Singh resident of village + P.O. Bijulia, P.O. Bijulia, P.S. Samho, District - Begusarai.
 9. Sudhir Kumar Singh Shastradhar S/o Late Umeshwar Singh resident of village - Sakri Gali, P.O. Gulzarbag, P.S. Alamganj, District - Patna.
 10. Ram Suresh Choudhary S/o Late Tej Narayan Choudhary resident of village - Sastran, P.S. Biraul, District - Aurangabad.
 11. Vishwanath Kumar S/o Suraj Dayal Singh resident of village - Jamhuria, Via - Usri, District - Jehanabad.
 12. Parma Nand Singh S/o Late Ram Kailash Singh resident of village - Garura, P.S. Sanjahuli, District - Rohtas.
 13. Birendra Kumar S/o Late Dodraj Prasad resident of village - Jorar, P.S. - Deep Nagar, District - Nalanda.

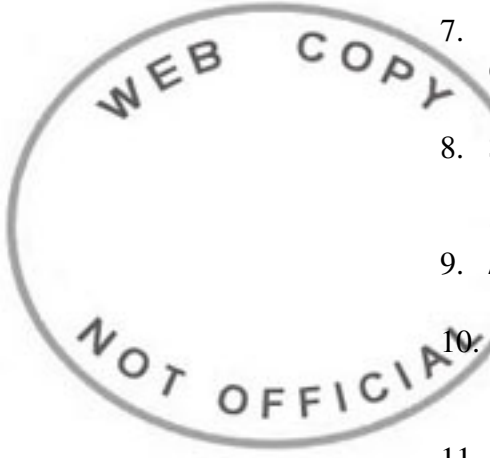
.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health and Family Welfare Department, Government of Bihar, Patna.
3. The Director-in-Chief, Health Services, Government of Bihar, Patna.
4. The Bihar Staff Selection Commission, Patna.
5. The Chairman, The Bihar Staff Selection Commission,

Patna.

6. The Secretary , The Bihar Staff Selection Commission, Patna.
7. Madan Prasad Singh S/o Sri Jag Narayan Singh Resident of village and P.O. - Sohjani, Hasan Bazar, P.S. - Piro, District - Bhojpur.
8. Syed Md. Mansoor Farid S/o Late S.M. Zafar Farid resident of Mohalla - Jamuna Gali, P.S. Pirbahore, District - Patna.
9. Amitabh Kumar S/o Late Lalit Mohan Prasad resident of Mohalla - Makhania Kuan, Pirbahore, District - Patna.
10. Kamlesh Kumar Sharma S/o Late Sidhnath Sharma resident of village and P.O. Lala Bhadsara, P.S. Dulhin Bazar, District - Patna.
11. Arbind Kumar Singh S/o Late Nagendra Gandhi Singh resident of K.G. Road, P.S. Nawada, District - Bhojpur.
12. Hrishikesh Sharma S/o Ramanand Sharma resident of village - Chawri, P.S. Dhanchhu, District - Bhojpur.
13. Gayan Nand Pandey S/o Sri Indradeo Pandey resident of village Land P.O. Obera, P.S. Obera, District - Aurangabad.
14. Gyan Prakash S/o Saryug Mahto resident of 7/C/3, Anandpuri, West Boring Canal Road, P.S. Sri Krishnapuri, District - Patna.
15. Umesh Prasad Singh S/o Sri Saryug Singh resident of Village - Sahiyara, P.S. Sahiyara, District - Sitamarhi.
16. Chandra Mouleshwar Mishra S/o Late Maheshwar Mishra resident of A/4, Agriculture Colony, Behind IGIMS, P.S. Shastri Nagar, District - Patna.
17. Shyam Sundar Bhagat S/o Late Ganesh Bhagat resident of Village and P.O Masumganj, P.S. Tarapur, District - Munger.
18. Satya Nand Rai S/o Late Dularu Rai resident of Village and P.O. Rampur Rajiara, P.S. Hasanpur, District - Samastipur.
19. Mithilesh Kumar Singh S/o Harendra Singh resident of Village - Kharika (South), P.S. Bidupur, District - Vaishali.
20. Koushal Kumar Sinha S/o Sri Nanhe Prasad Singh resident of Village - Prema Bigha, P.S. Paliganj, District - Patna.
21. Anand Swaroop Batsa S/o Jitendra Narayan Singh resident of Village - Sorampur, P.S. Dulhin Bazar, District - Patna.
22. Rajendra Yadav S/o Sri Raj Kishore Yadav resident of Village - Atarsan Tola, P.S. Rasulpur, District - Saran.
23. Md. Arif Khan S/o Late Md. Ian Khan resident of Mohalla - Faizullah Khan Jan Manzil, P.S. Laheria Sarai, P.O. AND District - Darbhanga.



24. Rajeev Ranjan Mishra S/o Sri Basuki Nath Mishra
resident of village - Garura, P.S. Sanjahuli, District -
Rohtas.

25. Arbind Kumar Pandey S/o Jag Mohan Pandey Resident of
Village + P.O. - Mahuon, P.S. - Bihian, District - Bhojpur.
.... Respondent/s

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Appearance :

For the Appellants : Mr. Subodh Kumar Jha, Advocate

Mr. Pranav Kumar Jha, Advocate

For the Res. Nos. 1 to 3 : Mr. M.K.Upadhyay, A.C. to G.P.-10

For the Resp.Nos.4 to 6 : Mr. S.S.Sundaram, Advocate

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**CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI
AND
HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE I. A. ANSARI)

6 19-01-2015

We have heard Mr. Subodh Kumar Jha, learned
counsel, appearing on behalf of the appellants, and Mr. M.
K. Upadhyay, learned Assistant Counsel to Government
Pleader No. 10, appearing on behalf of respondent Nos. 1
to 3. We have also heard Mr. S. S. Sundaram, learned
counsel, appearing on behalf of respondent Nos. 4 to 6.

By a common judgment and order, dated
14.03.2014, passed in C.W.J.C. No. 17455 of 2011 and
other analogous writ petitions, bearing C.W.J.C. No. 706 of
2012, C.W.J.C. No. 919 of 2012, C.W.J.C. No. 1902 of
2012, C.W.J.C. No. 8104 of 2012, C.W.J.C. No. 8665 of
2012, C.W.J.C. No. 19513 of 2011, C.W.J.C. No. 31636 of
2011, C.W.J.C. No. 22155 of 2011 and C.W.J.C. No. 22890
of 2011, a learned single Judge of this Court disposed of all



writ petitions with direction to the effect that the State Government and the Principal Secretary, Department of Health, Government of Bihar, Patna, shall ensure the appointment of the Pharmacist, on the basis of the recommendations of Bihar Staff Selection Commission (hereinafter referred to as 'the Commission') pursuant to the advertisement, dated 25.01.2000, must be completed within four months from the date of receipt of the recommendations from the Commission. The Commission has also been directed to undertake the exercise culminating into making of recommendations within a period of four months from the date of receipt of the order.

Out of the appellants, who are 13 in number, appellant Nos. 10, 11 and 13 had not participated in the writ petitions, i.e., C.W.J.C. No. 17455 of 2011 and its analogous writ petitions aforementioned; whereas the remaining appellants had participated in the writ petitions aforementioned.

It is, now, submitted on behalf of the appellant Nos. 10, 11 and 13, namely, Ram Suresh Choudhary, Vishwanath Kumar and Birendra Kumar respectively, that these appellants will file their appeals separately as against the order, which has been passed in their respective writ petitions and that their names may be struck off the cause

title of the memo of this appeal.

Ordered accordingly.

The grievance of the appellants is that by letter, dated 08.07.2013, the State Government has selected only those persons, who hold Diploma in Pharmacists between the years 1992 and 1999, and granted relaxation in the age of only those applicants, who had applied pursuant to the advertisement, dated 25.01.2000, and had held the Diploma in Pharmacists between the years 1992 and 1999. The letter, dated 08.07.2013, was not under challenge in C.W.J.C. No. 17455 of 2011. In fact, the letter, dated 08.07.2013, aforementioned has been challenged by the present appellants in C.W.J.C. No. 12981 of 2014.

As the appellants had not challenged, in C.W.J.C. No. 17455 of 2011, the letter, dated 08.07.2013, aforementioned, it becomes quite obvious that they cannot express any grievance, in this appeal, as against the relaxation of age granted by the Government by its letter, dated 08.07.2013, aforesaid. This position could not be disputed and for this reason only, these appellant have already filed a separate writ petition, which has given rise to C.W.J.C. No. 12981 of 2014.

It has, however, been submitted on behalf of

the appellants, that the directions given by the order, under appeal, would not cause prejudice to their cases which they have pleaded in the writ petition, namely, C.W.J.C. No. 12981 of 2014, which is still pending for decision.

We do not find any substance in the above submission inasmuch as the direction has been given to the Commission to make recommendations in terms of the Government letter, dated 08.07.2013, and other relevant materials and the State Government has been directed to make appointment in accordance with the recommendations, which may be made the Commission.

It is, now, submitted, on behalf of the appellants, that they may be allowed to withdraw this appeal with liberty to press CWJC No. 12981 of 2014 and that the decision, rendered in the order under appeal and direction given therein, shall not cause any prejudice to the adjudication of the right, if any, of the appellants.

No serious objection has been raised by the respondents to the submission so made on behalf of the appellants.

In view of above and in the interest of justice this appeal is disposed of as withdrawn making it clear that disposal of this appeal shall not debar the adjudication of C.W.J.C. No. 12981 of 2014 and the appellants' right, if

any, shall not be prejudice by the withdrawal of this appeal.

(I. A. Ansari, J.)

(Chakradhari Sharan Singh, J.)

Saif/-

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