

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1231 of 2016

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1. Veterans Forum for Transparency in Public Life through its General Secretary Namely Wing Commander (Retd), Bishwanath Prasad Singh son of late R.N. Singh R/o PNT colony, NO. 2, Dahiyawan, Chhapra, Bihar.

.... **Petitioner**

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna
4. The Principal Secretary to the Hon'ble Governor, Raj Bhawan, Patna.
5. The High Court of Judicature at Patna, through its Registrar General, High Court , Patna.
6. The Registrar General, High Court of Judicature at Patna
7. The Bihar Public Service Commission Patna through its Secretary, Bailey Road, Patna.,
8. The Chairman, Bihar Public Service Commission Bailey Road, Patna.

.... **Respondents**

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Pushkar Narain Shahi- AAG10
		Mr. Patanjali Rishi, Advocate
For the High Court	:	Mr. Piyush Lal, Advocate
For the BPSC	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

9 21-06-2016 In this writ application, which was filed by way of Public Interest Litigation, the petitioner seeks a direction to the respondents, particularly, the Bihar Public Service Commission to conduct examination of Civil Judge (Junior Division) year wise in terms of Rules 3 and 4 of the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955. Though the

petitioner has sought for some other reliefs, he has confined to present relief with liberty to raise other points at a later stage.

2. The petitioner has raised an important grievance that Bihar Public Service Commission has utterly failed to conduct the examination of Civil Judge (Junior Division) year wise for the year 2011-12, 2012-13, 2013-14 and 2014-15. Elaborating his submissions, the petitioner contends that in the 29th Judicial Service Examination for the year 2011-12, there were 16 vacancies; in the 30th Judicial Service Examination for the year 2012-13, there were 14 vacancies; in the 31st Judicial Service Examination for the year 2013-14, there were 176 vacancies and in the 32nd Judicial Service Examination for the year 2014-15 there were 149 vacancies and despite these vacancies and even after receipt of requisition sent by this Court year wise, the Bihar Public Service Commission failed to conduct the examination.

3. The statutory provisions, requiring the Bihar Public Service Commission to hold year wise examination, is not in dispute. It is relevant to state here that the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955 govern and regulate the recruitment of Civil Judge (Junior Division) and (Senior Division). Rule 3 requires the government to decide every year the number of vacancies in the posts of Civil Judge (Junior



Division) to be filled up by appointment to be made on a substantive basis or on a temporary basis or both. Rule 4 enjoins upon the Commission to conduct examination every year for filling the existing vacancies of that year. However, if for any reason, the Commission has not been able to hold the competitive examination for a particular year or years, it shall be open to the Commission to hold common competitive examination for a particular year or years clubbing together the existing vacancies for the purpose of preparing merit list. Rules 3 and 4 of the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955, being relevant are reproduced below:

“3. The Governor shall decide in each year the number of vacancies in the posts of Civil Judge (Junior Division) to be filled by appointment to be made on a substantive basis or on a temporary basis or both.

4. The Commission shall announce in each year, in such manner as they think fit, the number of vacancies to be filled that year by direct recruitment on the results of a competitive examination and shall invite applications from candidates eligible for appointment under these rules. The competitive examination will be conducted by the Commission and will normally be held between the months of November and February.

Provided that, if for any reason the Commission is not being able to hold the competitive examination for

a particular year or years, it shall be open to the Commission to hold common competitive examination for a particular year or years for which competitive examination could not be held in that particular year or years”

4. The petitioner submits that this Court has already made requisition for filling up the vacancies for different years for which the Commission has failed to conduct the examination and, if for unavoidable reasons, the examination has not been held for any particular year to hold the same by clubbing the vacancies of the past years. He submits that failure on the part of the Commission to fill up the vacancies is causing delay in dispensation of justice, which is one of the provisions of our preamble.

5. It is, thus, evident that under 1955 Rules, the Government is primarily required to decide the vacancies and the Commission shall conduct examination every year for filling up the vacancies. The High Court had already made requisition for filling up the vacancies for the 29th, 30th, 31st and 32nd Judicial Service Examination for the years 2011-12, 2012-13, 2013-14 and 2014-15. We, accordingly, direct the Commission to expedite the process of holding competitive examinations for

recruitment to the post of Civil Judge (Junior Division) strictly in terms of rules 3 and 4 of the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955.

6. With the aforesaid observations and directions, this writ application stands disposed of.

(I.A. Ansari, ACJ)

(Samarendra Pratap Singh, J)

Md. Jamaluddin Khan

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