

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1278 of 2015

IN

Civil Writ Jurisdiction Case No. 395 of 2011

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1. Binod Kumar son of late Nathun Prasad of village- Saristabad (west) P.O.- Anisabad, P.S.- Gardanibagh, Dist- Patna.
 2. Manoj Kumar Tripathi son of Shri Ram Nath Tripathi of vill and post- Gausia, P.S.- Manjha garh, Dist- Gopalganj.
 3. Ratnesh Kumar son of Sri Shiv Kumar Prasad Resident of Mohalla-bank Colony, Patel Nagar, near Dr. R.C.Pal, P.S.- Shastrinagar, Dist- Patna.
 4. Giri Naresh Rajak son of late Rajan Rajak of vill- Saristabad (near mosque) P.O.- Anisabad, P.S.- Gardanibagh, Dist- Patna.
 5. Binod Prasad Shrivastava son of Sri Gaya Prasad Shrivastava of vill and P.O. Bimari, P.S.- Shahpur, Dist- Bhojpur.
 6. Shailendra Kumar son of Sri Brahadeo Prasad of vill+P.O.+P.S.- Parwalpur dist- Nalanda.
 7. Vinod Kumar son of Shri Shivanand Singh Road no. 39 Raghunath tola, P.O.- Anishabad, P.S.- Gardanibagh, Dist- Patna.
 8. Anil Singh son of late Ram Prawesh Singh of vill+P.O.+P.S.- Parwalpur dist- Nalanda.
 9. Amarnath son of Umakant of Mohalla- Rang Bahadur Road, Puran Jail Khana, Opp Siya Maszid, Gaya.
 10. Rajiv Ranjan Sinha son of Surendra Prasad Singh of Rang Bahadur Road, Puran Jail Khana, Opp Siya Maszid, Gaya.
 11. Anup Kumar Verma son of late Ghanshyam Prasad Verma of Mohalla- Damaria (Near Panch Mandir) P.O.- Anishabad, Dist- Patna.
 12. Bijay Kishore Prasad son of Late Balram Prasad of Residence no.328, Anugrah Puri Colony, P.S.- Rampur, Dist- Gaya.
 13. Ashutosh Kumar son of Sri Rameshwar Prasad at Ahiyachak, P.O.- Jamsari P.s.- Bind, Dist- Nalanda.
 14. Arun Kumar Singh son of Deveki Nandan Singh of vill+P.O.- Balraismail, P.S.- Maniyari, Dist- Muzaffarpur.
 15. Parasnath Gupta son of Raghubir Prasad Gupta of vill- Madhoul, P.O.- Amrakh, P.S.- Maniari, Dist- Muzaffarpur.
 16. Shyam Kishore Singh son of late Awadh Singh of vill- Bagha Tilha, P.O.- Jodhanbigh, Dist- Patna.
 17. Shudhir Prasad Shrivastava son of late Lalan Prasad pf Mohalla- Maharaja Hata Ram Motergali(Santi niketan) at near railway colony, P.S.- Ara, Nawada.
 18. Lalan Prasad son of Sri Bundi Prasad ov vill+P.O.+P.S.- Kako, Dist- Jehanabad.
 19. Moizuddin Ansari son of Moinuddin Ansari of Paharpur Anishabad, P.S.- Gardanibnagh, Dist- Patna.
 20. Arbind Kumar Sinha son of late Sharda Prasad of vill- Shastri Nagar, P.O.- Ramna, P.s.- Mithapur, Dist- Muzaffarpur.
 21. Arun Kumar son of late Madhusudan Singh at Babura north side, P.O.- bapura, P.S.- Barhara, Dist- Bhojpur.

.... Appellants

Versus

1. The State of Bihar.
2. The Secretary, Department of Education, Govt. of Bihar, new Secretariat, Patna.
3. The Bihar School Examination Board through its Secretary, Sinha Library Road,

Patna.

4. The Chairman, Bihar School Examination Board through its Secretary, Sinha Library Road, Patna.

5. The Secretary, Bihar School Examination Board through its Secretary, Sinha Library Road, Patna.

6. Subhash Chandra son of Surajdeo Prasad of vill- Alkapur, Demariya, behind of quarter no.44 road no.10 Gardanibagh, Dist- Patna Bihar.

7. Md. Akhtar Alam son of late Abdur Razaque Dewan of vill- Sirajpuri, P.O.- Maheshpur, Dist- Sahebganj (Pakur) Jharkhand.

8. Ramesh Narayn Sharma son of Sri Jhari Lal Sharma of vill- Hayaghat Bilashpur, P.s.- Hayaghat, Dist- Darbhanga.

9. Ram Jatan Singh son of late Saryug Prasad Singh of vill- Hayaghat Bilashpur, P.s.- Hayaghat, Dist- Darbhanga.

10. Kaushalendra Pd Karn son of Sri Narendra Prasad of vill + P.O.- Chhatneshwar, P.S.- Warish Nagar, Dist- Samastipur, Bihar.

.... Respondents

Appearance :

For the Appellant/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mrs. Priyanka Singh, Advocate

For the Respondent/s : None.

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 14-03-2016

Heard Sri Yogesh Chandra Verma, learned Senior

Counsel appearing in support of this appeal.

This Intra-Court Appeal has been filed against judgment and order dated 17.06.2014 in C.W.J.C. No. 395/2011 and analogous cases.

We have heard this matter, and with consent of the parties, finally disposing of this appeal at this stage itself.

It appears that in 1989, an advertisement was issued by the Bihar School Examination Board for permanent appointment to the post of Assistant, Driver, Clerk and other



posts. The writ petitioners/appellants had applied. The process dragged on, but final results were not being declared. The writ applications had been filed for declaration of results. Pursuant to direction in those writ petitions, dated 29.11.1996, results were published on 31.03.1998, thereafter, the Board had cancelled the whole process. The ground for cancellation was that, in between 1989 and 1998, the function of the Board had been reorganized, inasmuch as the intermediate curriculum was taken away from the Board and a separate Bihar School Examination Board was established. The requirement of staff/employee had substantially reduced, and thereafter there was no further recruitment of employment. Thereafter in 2009, a fresh advertisement was issued by the Board for recruitment of about 32 assistants for a period of 11 months on contractual basis. It was specifically provided that the selection would be made from competent assistants who retired from service. Being aggrieved by this advertisement and alleged *mala fide*, these group of writ petitions were filed by the applicants, who had applied in the year 1989, and whose case has been closed way back in the year 1998. They alleged that if there was no vacancy for their appointment, why these fresh appointment.

On the face of it, the argument made on behalf of the appellant merits no consideration, as their appointment process was closed in the year 1998. This advertisement is now being issued in the year 2009, 11 years later. This advertisement is for a temporary appointment of retired persons, meaning thereby of experienced persons on contractual basis. The number is far and few from what was originally advertised in the year 1989, 20 years back. Thus, the plea of *mala fide* of false affidavits cannot be sustained. Unfortunately, because these writ petitions were filed, even advertisement in 2009, has not been acted upon.

Thus, we fail to see what right accrues to the writ petitioners/appellants to pursue in the matter. The writ petition was rightly dismissed by learned Single Judge.

This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

Rajeev/A.F.R.

(Nilu Agrawal, J)

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