

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10866 of 2015

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1. Sunil Kumar Sharma Son of Jagdish Sharma resident of Mofarganj, Gareri Tola, P.S. and District - Katihar
 2. Vinay Kumar Upadhyay Son of Shiv Pujan Upadhyay resident of village - Godabari, P.S. Korha, District - Katihar
 3. Sumit Kumar Son of Ganesh Prasad Paswan resident of Mofarganj, P.S. and District - Katihar
 4. Dhiraj Chandra Saha Son of Chitt Ranjan Saha resident of Hatbalrampur, P.S. Aaba, District - Katihar
 5. Dhiraj Kumar Ranjan Son of Late Prabhat Kumar resident of Gaushala, P.S. and District - Katihar
 6. Manisha Kumari D/o Ashok Kumar Patel resident of village - Udama Rekha, P.O. Sirniyan, P.S. Sirniyan, District - Katihar
 7. Vijay Raj S/o Shivdhari Paswan resident of village - Udama Rekha, P.O. & P.S. Sirniyan, District - Katihar
 8. Asim Kumar Son of Vijay Bhushan Pal resident of Bavasavdal, P.S. Durga Asthan, District - Katihar
 9. Deepak Kumar Sah Son of Late Naresh Lal Sah resident of Indira Nagar, Laliyahi, Katihar
 10. Deepak Kumar Sarkar S/o Anil Sarkar r/o Verma Colony, Tingachhiya, P.S. & Distt. - Katihar
 11. Sanjeet Kumar Son of Ram Varan Mandal resident of Ganga Bhawan, Barmasiya, Katihar, P.S. District - Katihar
 12. Sanjeev Kumar Lal Son of Santosh Kumar Lal resident of village & P.S. Azamnagar, Sub - Division Barsoi, District - Katihar
 13. Ranjeet Kumar Sah Son of Satish Chandra Sah resident of village - Barhat, P.O. and P.S. Azamnagar, District - Katihar
 14. Chandan Kumar Sharma Son of Jyotish Sharma resident of Durga Asthan, P.S. and District - Katihar
 15. Dipankar Kumar S/o Vijay Bhushan Pal resident of 1 No., Colony, Durga Asthan, P.S. & District - Katihar
 16. Brajesh Yadav Son of Parmeshwar Yadav resident of Tapuwa, Govindpur, P.S. Falka, P.O. Sahlepur, District - Katihar
 17. Ravi Kumar Gupta Son of Gopal Krishna Gupta resident of Sonaili, P.S. Kadwa, District - Katihar
 18. Parveen Kumar Son of Kamaldeo Jha resident of Bareta, P.S. Falka, District - Katihar
 19. Rajeev Ranjan Son of Kamalkant Yadav resident of village - Barmasiya, P.S. & District - Katihar
 20. Md. Sahil Rahman Son of Md. Hadish resident of Partaili, P.S. Hareritha, District - Katihar
 21. Prakash Chandra Jha Son of Surendra Nath Jha resident of Jafarpur, P.O. Babhani, P.S. Dagarua, District - Purnea
 22. Rahul Kumar Son of Jai Prakash Mandal resident of Bhayankari, Tingachhiya, District - Katihar
 23. Rajesh Kumar Son of Dipak Sah resident of Naya Tola, Tingachhiya, P.S. & District - Katihar
 24. Niranjana Sharma Son of Khagendra Sharma resident of Aalepur, P.O. Shitalpur, Vankar, P.S. Barsoi, District - Katihar
 25. Mantu Kumar Tanti Son of Jai Kant Tanti resident of Bathna Milewasa, P.O.

- Shitalpur, Vankar, P.S. Barsoi, District - Katihar
26. Mithilesh Kumar Son of Jawahar Lal Paswan resident of village - Lalkothi, P.S. & District - Katihar
27. Manoj Kumar Son of Sri Punit Singh resident of Bheriya, Rahika, P.O. & P.S. & District - Katihar
28. Santosh Kumar Mandal Son of Shrawan Kumar Mandal resident of Mangal Bazar (Bata Chowk), Katihar
29. Ranjeeta Kumari D/o Purushottam Gupta resident of P.N.T. Chowk, P.S. Barmasiya, Distt. - Katihar
30. Bhanu Kumar Das Son of Nani Gopal Das resident of Baniyatola, P.S. & District - Katihar
31. Sapan Kumar Das Son of Sudhir Chandra Das resident of Raghunathpur, P.S. Barsoi, District - Katihar
32. Pappu Pal Son of Pradeep Pal resident of Raghunathpur, P.S. Barsoi, District - Katihar
33. Amresh Kumar Sanjiv Son of Gurudeo Malakar resident of Mahantnagar, P.S. District - Katihar
34. Ranjay Kumar Ambast Son of Kumareshwar Prasad Lal resident of Mohalla - Gandhi Nagar, P.S. & District - Katihar
35. Suraj Kumar Son of Sunil Kumar Gupta resident of Jamai Tola, P.O. AG. Bazar, P.S. District - Katihar
36. Babu Ram Besra Son of Surai Besra Resident of Jagwati, P.O. Kumaripur, P.S. Manihari, District - Katihar
37. Dilip Kumar Sah Son of Ram Prasad Sah resident of Sukhasan, P.S. Barari, District - Katihar
38. Mangal Besara Son of Dena Besra resident of Bari Tola, P.O. Dandkhora, P.S. & District - Katihar
39. Vishnu Dev Soren Son of Mohra Soren resident of Pokharia, Santhali Tola, Dalan, P.S. & District - Katihar
40. Smit Sagar Son of Binod Kumar Sinha resident of village - Babhani, P.O. Baretha, P.S. Falka, District - Katihar
41. Suraj Kumar Son of Saty Narayan Poddar resident of Haridayganj, Koshi Colony, P.S. & District - Katihar
42. Mukesh Kumar Son of Kanhaiya Prasad Sharma resident of Lohiya Nagar, Katihar
43. Kamlesh Poddar Son of Krishndeo Poddar R/o Hawaii Adda, Katihar, P.S. & District - Katihar
44. Madan Kumar Paswan Son of Jagarnath Paswan resident of Marangi, P.O. Mansahi, District - Katihar
45. Govind Kumar Paswan Son of Jagarnath Paswan resident of village - Marangi, P.O. Mansahi, P.O. and District - Katihar
46. Harish Kumar Jaiswal Son of Rameshwar Prasad Jaiswal Resident of village - Kataria, P.S. Kursela, District - Katihar
47. Manas Kumar Son of Diwakar Jha resident of village - Babhani, P.O. Bareta, P.S. Falka, District - Katihar
48. Sanjeev Kumar Bishwas Son of Kripanand Mandal resident of Sanaili, P.S. Kadwa, District - Katihar
49. Guddi Kumari D/o Sri Shyam Bihari resident of Chhintabari, P.O. Belwa, P.S. and District - Katihar
50. Kundan Kumar Son of Sri Dinesh Prasad resident of Binodpur, P.S. & District - Katihar
51. Rajni Kumari D/o Ram Vilash Gupta resident of Mirchaibari, Masjid Road,

- P.S. & District - Katihar
52. Soni Kumari D/o Shankar Poddar Resident of Bania Tola, P.O. & P.S. & District - Katihar
53. Nitu Kumari D/o Raj Kishore Singh resident of Kushwaha Tola, Fasia, District & P.S. Katihar
54. Sonam Kumari D/o Mahendra Paswan resident of village - Nisiganj, Line Bazar, P.S. & District - Purnea
55. Rani Kumari D/o Shankar Mallick resident of Durgapur, Laliyahi, P.S. & District - Katihar
56. Priyatam Kumar Sharma S/o Vilas Sharma resident of village - Tilas Rageli, P.S. & District - Katihar
57. Naweem Kumar Mahto Son of Arjun Kumar resident of Mofarganj, Gareri Tola, P.S. and District - Katihar
58. Sangita Kumari D/o Ram Charitar Prasad Yadav resident of village - Dhuriyahi, P.O. Samda, Maniha, P.S. Manihari, District - Katihar
59. Babli Kumari D/o Vishnudeo Tatma resident of village - Dwashaya, P.S. Dandkhora, District - Katihar
60. Santoshi Kumari D/o Sikandar Sharma resident of village - Semapur, P.S. Barari, District - Katihar
61. Dhiraj Roy Son of Birendra Nath Rai resident of village - Balupara, P.S. Barsoi, District - Katihar
62. Tabraj Khan Son of Badrujjama Khan resident of village - Satsang Nagar, Baigana, P.S. & District - Katihar
63. Ahmad Hussain Son of Md. Anis resident of Mahuwar, Fatehnagar, P.S. Manihari, District - Katihar
64. Pritam Kumar Singh Son of Manoj Kumar Singh resident of Katihar, P.S. & District - Katihar
65. Suman Thakur Son of Laxmi Thakur resident of Jhoa, P.S. Aramnagar, District - Katihar
66. Md. Kadir Ansari S/o Md. Salim Ansari R/o Mirchaibari, Maszid Road, P.S. & District - Katihar
67. Anil Kumar Sah Son of Saman Sah resident of Sanehi, P.S. Falka, District - Katihar
68. Aditya Kumar Son of Cheedi Prasad Mandal resident of village - Jaunian, P.O. Bastaul, Pranpur, District - Katihar
69. Md. Azaharuddin S/o Israil Alam Ansari Resident of Larkania Tola, P.S. & District - Katihar
70. Ishrail Alam Ansari S/o Israil Alam Ansari resident of Barbanna, P.S. & District - Katihar
71. Ishrat Praveen D/o Abdul Jabbar resident of Kadwa, Rampara, P.S. Kadawa, District - Katihar
72. Anand Kumar Son of Late Kartik Prasad resident of Hridayaganj (Simra Bagan) P.O. Court Campus, P.S. & District - Katihar
73. Nahid Praween D/o Md. Abdul Gaffar Resident of Larkania Tola, P.S. & District - Katihar
74. Nutan Kumari D/o Ashok Kumar Mandal resident of Ramnagar, P.S. District - Katihar
75. Anil Kumar Singh S/o Ganga Prasad Singh resident of Durgapur, Old Dharmshala Katihar, P.S. & District - Katihar
76. Dipak Kumar Singh Son of Rajnikant Singh resident of Naya Tola Fulwari, P.S. and District - Katihar
77. Dolly Kumari D/o Mani Mohan Panjiyar Resident of Shiv Mandir Chowk,

Chalisa Hat, P.S. & District - Katihar

78. Seema Bharti D/o Baldeo Yadav resident of village - Baharkhal, P.O. Khudna Rupaspur, P.S. Rautara, District - Katihar
79. Sanjay Kumar Singh S/o Lakari Prasad Singh resident of Durgapur, Gorhi Tola, P.S. & District - Katihar
80. Kundan Kumar Chaudhary Son of Shankar Prasad Chaudhary resident of village - Jamai, Tola, P.O. Ayodhyaganj, District - Katihar
81. Satya Priya S/o Sushilchandra Mandal resident of Chakla Maula, P.S. Falka, District - Katihar
82. Rahul Kumar Son of Naresh Mandal resident of Bholamari, P.O. Amdabad, District - Katihar
83. Darshan Kumar Chaudhary Son of Hari Chaudhary resident of Khushhalpur, P.O. Kehuniyan, P.S. Pranpur, District - Katihar
84. Gaurav Kumar Son of Akaludeo Sharma resident of Paranpur, P.O. Fatehpur, P.S. Barsoi, District - Katihar
85. Komal Rani D/o Suresh Kumar resident of Badhwari, P.S. & District - Katihar
86. Santosh Kumar Yadav Son of Rajendra Yadav resident of Hasaina, Bhandartal, P.S. Barari, District - Katihar
87. Ravindra Kumar Bharti Son of Late Bhavdeo Thakur resident of Sameli, P.S. Kursela, District - Katihar
88. Zainul Abedin S/o Md. Ekramul Haque resident of Maltipur, P.O. Roshna, P.S. Amdabad, District - Katihar
89. Uttam Kumar S/o Sureshchandra Yadav resident of Binodpur, P.S. & District - Katihar
90. Md. Qayyoom Son of Md. Ashraf resident of Labha, P.O. Mahadeopur, P.S. Pranpur, District - Katihar
91. Rahul Kumar Son of Bhagwan Prasad Keshri resident of Katihar, P.S. & District - Katihar
92. Md. Ekramul Son of Md. Ashraf resident of Labha, P.O. Mahadeopur, P.S. Pranpur, District - Katihar
93. Onkar Nath Jha Son of Bhirendra Narayan Jha resident of Saharsa, P.S. Saharsa, District - Saharsa
94. Vivek Kumar Dutta Son of Manoj Kumar Dutta resident of Colony No. 1, Durga Asthan, P.S. & District - Katihar
95. Abhishek Kumar Son of Raman Kumar resident of D.S. College, Verma Nagar, P.S. & District - Katihar
96. Wakil Paswan Son of Ram Nath Paswan resident of Durgapur, Goshala, P.S. & District - Katihar
97. Rahul Kumar Bhagat Son of Prabhu Dayal Bhagat resident of Daulat Ram Chawk, P.S. & District - Katihar
98. Nikha Kumari D/o Diwakar Mandal resident of Morsanda, P.S. Falka, District - Katihar
99. Nilotpal Kumar Son of Vivekanand Yadav resident of Tangakol, P.S. Falka, District - Katihar
- Petitioners

a. Versus

1. The State of Bihar, through the Principal Secretary, General Administrative Department Govt. of Bihar, Patna
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
3. The Joint Director - Cum - Joint Secretary Panchayati Raj Department, Bihar, Patna
4. The Special Work Officer, Panchayati Raj Department, Bihar, Patna

5. The Mission Director, Bihar Administrative Reforms Mission Society, Bihar, Patna
6. The District Magistrate, Katihar
7. The Deputy Development Commissioner, Katihar
8. The District Panchayat Raj Officer, Katihar Respondents
with

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Civil Writ Jurisdiction Case No. 16401 of 2015

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1. Amit Kumar son of Sadanand Sah, resident of Nayatola, P.S. and District- Katihar.
2. Amardeep Kumar S/o. Sudhir Kumar Mandal resident of Rahta, P.S.- Falka, District- Katihar.
3. Tinku Kumar Chaudhary son of Manik Chaudhary Resident of Gandhi Tola, P.S.- Manihari, District- Katihar.
4. Gautam Kumar Sharma S/o. Bipin Sharma, resident of Teja Tola, P.S. and District- Katihar
5. Md. Matiur Rahman son of Sk. Shahid, resident of Dhusbhar, Block- Garbheli, District- Katihar.
6. Md. Ajaz Son of Md. Tamiz, resident of Hasanganj, P.S. Katihar, District- Katihar
7. Guddu Kumar son of Kamleshwar Malakar resident of Mirchaibari, P.S. and District- Katihar.
8. Md. Shafique Son of Md. Ifazuddin, resident of Babupur, P.S. Manihari, District- Katihar.
9. Md. Arif Akhtar Son of-Asim Akhtar, resident of Sultanpur, P.S. Barsoi, District- Katihar
10. Ravikant Ravi S/o. Kishore Kumar Das resident of Raghunathpur, P.S. Barsoi, District- Katihar
11. Ganesh Prasad Chaudhary S/o Bindeshwari Chaudhary, Resident of Mofarganj, Gareritola, P.S. and District- Katihar
12. Naveen Kumar son of Ramanand Sharma, resident of Kalyanpur, P.S. K. Nagar, District- Purnea.
13. Pappi Kumari D/o. Ramanand Poddar, resident of Bhamreli, P.S. Dandhora, District- Katihar
14. Tannu D/o. Ram Prasad Sah, resident of Nayatola P.S. & District- Katihar
15. Minu Ragni D/o. Ram Prasad Sah, resident of Satsangnagar, Basgna, P.S. and District- Katihar
16. Narayan Kushwaha S/o. Bahadur Singh, resident of Mania Pipra, P.S. and District- Katihar
17. Rakesh Kumar Bishwas S/o. Akhilesh Bishwas resident of Nijhara, P.S. Kadwa, District- Katihar.
18. Koshal Kishore Jha Son of Narendra Kumar Jha resident of T.V. Centre, P.S. and District- Katihar.
19. Avinash Jha son of Naval Kishore Jha resident of Sohaya, P.S.- Falka, District- Katihar ... Petitioners

Versus

1. The State of Bihar, through the Principal Secretary, General Administrative Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.

3. The Joint Director-cum-Joint Secretary Panchayati Raj Department, Bihar, Patna.
4. The Special Work Officer, Panchayati Raj Department, Bihar, Patna.
5. The Mission Director, Bihar Administrative Reforms Mission Society, Bihar, Patna.
6. The District Magistrate, Katihar
7. The Deputy Development Commissioner, Katihar.
8. The District Panchayat Raj Officer, Katihar Respondents

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Appearance :

For the petitioners : Mr. Rajendra Narain, Sr. Advocate

Mr. Sanjiv Kumar Singh, Advocate

For the respondents : Mr. Prashant Pratap, GP 6

Mr. Yogendra Prasad Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 05-04-2016

Let the name of petitioner at Serial no. 82 be struck off as the same has also been repeated at Serial no. 36, as pointed out by learned counsel for the petitioners.

Petitioners were appointed on contractual basis as Executive assistant under Rajiv Gandhi Panchayat Sashaktikaran Abhiyan (RGPSA) for execution of work related to the proposed Right to State Public Services Act, 2011 as per the guidelines and procedure laid down for appointment of Executive assistant. They further submit that the necessary funds were also allocated for such appointments on Honorarium basis.

Petitioners have assailed the impugned order, dated 21.5.2015, issued by the Special Work Officer, Panchayati Raj Department, Government of Bihar, Patna and consequential order

dated 22.5.2015, issued by the District Magistrate, Katihar terminating them from the service.

Petitioners have assailed the impugned orders primarily on two grounds:-

(a) The same has been passed in violation of principals of natural justice, without providing an opportunity of hearing to them.

(b) Respondents have erred in coming to the conclusion that the posts of Executive assistants were not duly sanctioned.

The petitioners, by referring to letter, dated 25.11.2014, issued by the Joint Director cum Joint Secretary, Panhayati Raj Department, Bihar, Patna, submits that both the budget and the posts were sanctioned by the Cabinet. Learned counsel for the petitioners submits that the impugned orders have been passed on nonest ground, as many of the Executive assistants are still continuing. It appears from perusal of the scheme that the contractual services of the petitioners were at least guaranteed as long as the scheme continued. It is true that their services were contractual and the same could be terminated without any notice as per terms and conditions.

State has filed counter affidavit. It is submitted that the appointment of Executive assistants have been made in view of letter dated 25.11.2014, issued by the Joint Director cum Joint Secretary, Panhayati Raj Department, Bihar, Patna addressed to Accountant

General, Bihar, wherein it is stipulated that the services of Executive Assistant would be *co-terminus* with engagement of Panchayat Assistant.

In my view, even though appointment of petitioners was contractual, still their services ought not to have been done away with, without providing an opportunity of hearing. In this view of the matter, the writ petitions are disposed of with following observations:-

Petitioners would file representation before respondent no.2 within a period of three weeks from the date of receipt of a copy of this order. On receipt of such representation, respondent no.2 would give a hearing to the petitioners. Thereafter, the former would dispose of representations addressing the issues point wise within a further period of six weeks. It would be open for respondent no.2 to direct reinstatement of petitioners if he is satisfied that their appointments have been illegally terminated. Orders of respondent no.2 would have overriding effect on the decision dated 21.5.2015, contained Annexure 6 and consequent order dated 22.5.2015, contained in Annexure 7.

(Samarendra Pratap Singh, J)

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