

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13569 of 2015

- =====
1. Awadhesh Kumar, Son of Sri Ram Chandra Thakur, resident of Mohalla- Rani Ganj, P.S.- Tekari, District- Gaya
 2. Ranjit Kumar, son of Sri Brajnandan Chaudhary, resident of village- Rewara, P.S.- Bela Ganj, District- Gaya
 3. Manohar Kumar, son of Sri Rambhaju Prasad, resident of village- Pachrukha, P.S.- Khijarsarai, District- Gaya
 4. Ranjan Kumar, son of Rajesh Bishwarkarma, resident of village- Gewal Bigha, P.S.- Civil Line, District- Gaya
 5. Kamleshwar Prasad, son of Bansi Ram, resident of village- Paharpur, P.S.- Aamas, District- Gaya
 6. Krishna Kumar, son of Shilaram Mistri, resident of village- Masalipur, P.S.- Muffasil, District- Gaya
 7. Ram Chandra Das, son of Nagina Das, resident of village- Balihandi Tola, P.S.- Muffasil, District- Gaya
 8. Sumit Kumar Gupta, son of Late Dwarika Prasad Gupta, resident of village- Rikali Ganj, P.S.- Tekari, District- Gaya
 9. Sandhya Kumari, daughter of Shiv Kumar Prasad, resident of village- Moehari Ram, P.S.- Bodh Gaya, District- Gaya
 10. Sandeep Kumar, son of Ram Charan Choudhary, resident of village- Kujapi, P.S.- Chandauli, District- Gaya
 11. Sujeet Kumar Singh @ Sujeet Kumar, son of Murari Goswami resident of village- Belhadia, P.S.- Tekari, District- Gaya
 12. Sham Kumar, son of Sitaram Bind, resident of village- Jaynandan Bigha, P.S.- Tekari, District- Gaya
 13. Santosh Kumar, son of Subedar Paswan, resident of village- Kaldaspur, P.S.- Chandauli, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of General Administration, Government of Bihar, Patna
2. The Mission Director, Bihar Administration Reforms Project Society, Department of General Administration, Government of Bihar, Patna
3. The District Magistrate, Gaya
4. The Project Director Atma Gaya, P.S. Civil Line, Gaya
5. The Block Agriculture Officer, Bodh Gaya, District- Gaya
6. The Deputy Development Officer, Gaya
7. The Additional Collector (Special), Gaya
8. The District Establishment Deputy Collector, Gaya
9. The District Information (Science) Officer, National Informatic Centre, Gaya
10. The District I.T. Manager, Gaya, P.S. Civil Lines, Gaya

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Banwari Sharma,

For the Respondent/s : Mr. Ashok Kumar Chaudhary, AAG-13

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
C.A.V. JUDGMENT
Date: 30-03-2016

Writ application has been filed by the petitioners, 13 in number, that they be appointed as an Executive Assistant as their names did find place in the list prepared by Gaya Collectorate in the examination held in December, 2013.

They challenge the decision of the District Magistrate, dated 13.09.2014 (Annexure-5), by virtue of which a decision was taken that candidates having less than 33 per cent marks in the said selection would not be appointed. This condition is being challenged by the petitioners in the present writ application as well.

The General Administration Department set up a Society, what is known as Bihar Administrative Reforms Commission Society. This was for providing quick and efficient service to the people under the Right to Public Service Act, 2011. The advertisement is Annexure-1 to the writ application. This appointment was on contract and valid for a period of one year, though the service could be extended.

Petitioners applied for the post. They appeared for the counseling and the examination in computer skill test and a merit list was prepared, which is Annexure-3 to the writ application. Appointments came to be made of some of the selected candidates, but since these petitioners did not beget any response, some of them even represented to the authorities. The authorities in a

meeting held on 13.09.2014 took a conscious decision that keeping in mind the object behind such engagements of the selected candidates and the efficiency needed for time bound delivery of the service, a minimum cut-off mark of 33 percent was insisted upon.

Learned counsel representing the petitioners submits that rule of the game can not be changed, because there was nothing of the kind indicated in the advertisement of any minimum cut off marks. Such a decision at a belated stage is required to be struck-down and in this regard he relies on a decision rendered by a Learned Single Judge in the case of Dr. Kishore Kumar Versus the State of Bihar reported in 2008 (3) BBCJ 1.

The respondents in the counter affidavit have stated that no doubt a panel contained in Annexure-3 was prepared on the basis of the performance of the candidates in the said exercise of selection, but since the computer skill test is a very important part of the engagement as Executive Assistant as would be evident from the advertisement itself, the authorities in their wisdom decided to get a minimum bench-mark for efficiency and proficiency in the interest of service fixed minimum bench-mark of 33 per cent. The bench-mark has not been pegged very high and a bench-mark of 33 percent cannot also be presumed to be arbitrary, as is the stand of the counsel for the State. It is also urged that these are not substantive appointments but contractual engagements. Since a large number of services come under the Act and they have to be

provided within a time-frame, unless the persons hired for such delivery of service have proven themselves to be efficient and diligent in computer operation, the State will fail in its duty to deliver the services within the time frame to the public at large. The minimum 33 per cent marks, therefore, was decided in the interest of efficiency of service and timely delivery of service to the public, which is in public interest.

The Court in the given facts, therefore, does not find anything arbitrary of keeping a minimum bench-mark for appointment on contract for such a post, since minimum efficiency and proficiency should be and can be insisted upon, in the interest of public at large. There is nothing arbitrary in the decision contained in Annexure-5 for non-appointment of these petitioners, if they have not touched the minimum bench-mark of 33 per cent.

Writ has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

U			
---	--	--	--