

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6338 of 2014

- =====
1. Nawal Kishore Paswan S/O Late Babulal Paswan R/O Village - Mahuli, P.S. - Nawada, Distt. - Nawada
 2. Saryu Sao S/O Basudeo Sao R/O Village - Abdalpur Pararia, P.S. - Nardiganj, Distt. - Nawada
 3. Ranjeet Kumar S/O Late Bhagwat Pandey R/O Village - Neya, P.S. - Muffasil, Distt. - Nawada
 4. Ranju Kumari W/O Dhirendra Kumar R/O Vill. - Naromurar, P.S. - Warsaliganj, Distt. - Nawada
 5. Satish Chandra Bharti S/O Late Ram Chandra Paswan R/O Village - Mahuli, P.O. - Siswan, P.S. + Distt. Nawada
 6. Kapildeo Singh S/O Late Shiva Singh R/O Vill. - Punaul, P.S. - Narhit, Distt. - Nawada
 7. Shambhu Vishwakarma S/O Sri Ram Ishwari Mistry R/O Vill. - Ram Nagar, P.S. + Distt. - Nawada
 8. Mithilesh Kumar S/O Girija Singh R/O Village - Chatihar, P.S. - Hilsa, Distt. - Nawada
 9. Madhusudan Pd. Rai S/O Bhuneshwar Pd. Yadav R/O Vill. - Mangar Bigha, P.S. + Distt. - Nawada
 10. Shivbalak Ravidas S/O Mauzi Ravidas R/O Vill. - Rampur, P.S. + Distt - Nawada
 11. Binod Kumar S/O Nageshwar Pd. Singh R/O Vill . - Narhit, P.S. - Narhat, Distt. - Nawada
 12. Ramu Singh Yadav S/O Billu Singh Yadav R/O Vill. - Ambika Bigha, P.S. - Atari, Distt. - Gaya
 13. Rajendra Chauhan S/O Ram Lakhan Prasad R/O Vill. – Bhagwanpur tola Shiv. Bigha, Police Station and district Nawada.
 14. Rakesh Kumar s/o Ramcharitra Singh resident of village Salgudar, Police Station Lakhisarai, district Lakhisarai
 15. Anuj Kumar s/o Upendra Prasad Chaudhary resident of village Mahadeopur, Police Station Amarpur, district Banka

.... Petitioners

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Patna
2. The Principal Secretary General Administration Deptt. Govt. Of Bihar, Patna
3. The District Magistrate Nawada, Distt. - Nawada
4. The Civil Surgeon-Cum-Chief Medical Officer, Nawada
5. The Deputy Development Commissioner, Nawada

.... Respondents

with

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Civil Writ Jurisdiction Case No. 7703 of 2014

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1. Surjeet Kumar Son of Uday Pd. Singh R/o Mohalla New Area in front of R.M.W. Mahila College, Nawada, P.S+District- Nawada
2. Sangita Kumari W/o Ajit Kumar R/o Village Kanhiya Nagar, P.S+ Distt- Nawada
3. Rita Verma W/o Vinay Kumar Verma R/o Village- Gonawan, P.S+ District- Nawada

4. Pankaj kumar S/o Ramnandan Singh R/o Village Aoro, P.S- Hisua, Distt- Nawada
5. Sanjay Kumar S/o Late Bachchu Singh R/Vill- Asma, P.S- Akbarpur, Distt- Nawada.
6. Rakesh Kumar Sinha S/o Yogendra Prasad R/o Vill.- Rewar, P.S- Dhamaul, Distt- Nawada.
7. Minta Kumari W/o Satyendra Sharma R/o Village- Ranipur, P.S- Hisua, Distt- Nawada.
8. Md. Nasimuddin Son of Md. Abdul Rafe R/o Village Bazipur, P.S- Warisaliganj, Distt- Nawada.
9. Vijay Shankar Prasad son of Late Nand Kishore Prasad R/o village- Tyar, P.S- Akbarpur, Distt- Nawada

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
 2. The Principal Secretary- General Administration Deptt. Govt. of Bihar, Patna.
 3. The District Magistrate Nawada, Distt- Nawada.
 4. The Civil Surgeon-cum- Chief Medical Officer, Nawada.
 5. The Deputy Development Commissioner, Nawada.
 6. The Cabinet Vigilance, Department, Bihar, Patna.
- Respondents
with

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Civil Writ Jurisdiction Case No. 11664 of 2013

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1. Sanjay Kumar Son Of Aditya Prasad Singh Resident Of Village - Pakri, P.O. Kosumhar, P.S. Akbarpur, District - Nawadah, At Present Inter School, Gopalpur, Nawadah
2. Sanjay Prasad Son Of Ashwini Kumar Sinha Resident Of Village And P.O. - Teyar, P.S. - Akbarpur, District - Nawadah, At Present High School, Dhanpur, Nawadah
3. Sushma Rani Sinha D/O Late Gaya Prasad, Wife Of Alind Kumar Verma Resident Of Mohalla - Garhpar, Nardiganj Road, P.S. Nawadah, District - Nawadah
4. Sayed Md. Nurul Hoda @ Sayed Mohd. Noorul Hoda Son Of Sayed Mohd. Samsul Hoda Resident Of Mohalla - Pirdah Tolipar Nawadah, P.O. + P.S + District - Nawadah At Present R.K. Interschool, Siur, Nawadah
5. Saryug Ram Son Of Late Musafir Ram Resident Of Kataiya, P.O. - Siur, P.S. - Roh District - Nawadah, At Present High School, Hadsa, Nawadah
6. Mosafir Ravidas Son Of Ramji Ravi Das Resident Of Mohalla - Par Nawadah, Gaya Road, P.O. + P.S. + District - Nawadah, At Present High School, Narpur, Pakaria
7. Ranjeet Kumar Son Of Harkhu Singh Resident Of Village Sahgajipur, P.O. - Raja Bigha, P.S. - Narhat, District - Nawadah, At Presently Posted At Inter School Pandey Gangavt
8. Vijay Ravidas Son Of Late Bindo Ravidas Resident Of Mohalla - Ambedkar Nagar, Gaya Road Par Nawadah, P.O. + P.S. + District - Nawadah, At Presently Posted At High Shcool, Akbarpur
9. Sunil Kumar Sinha Son Of Late Kameshwar Lal Resident Of Village + P.O. - Kochgaon, P.S. - Warsaliganj, District - Nawadah, At Presently Posted At High School, Narhat
10. Ishwari Prasad Das Son Of Jageshwar Das Resident Of Village - Kurma, P.O. Nanaura, P.S. Akbarpur, District - Nawadah, At Presently Posted At High School, Lal Bigha
11. Basudeo Ravidas Son Of Kishun Ravidas Resident Vill. + P.O. - Andharwari, P.S.

- Rajauli, District - Nawadah, At Presently Posted At High School, Thalpur
12. Sunil Kumar Son Of Late Bhagwan Das Resident Of Village - Thera Sarai, P.O. - Jalalpur, P.S. - Warsaliganj, District - Nawadah, At Presently Posted At High School, Par Nawadah
13. Subodh Kumar Son Of Jai Prakash Paswan Resident Of Village - Anunawan, P.S. - Islampur, District - Nawadah, At Presently Posted At High School, Akbarpur
14. Rajendra Ravidas Son Of Hari Ravidas Resident Of Village + P.O. - Bhadokhara (Tola Maharajganj), P.S. - Muffasil, District - Nawadah, At Presently Posted At High School, Meskaur
15. Pappu Ravidas Son Of Govind Ravidas Resident Of Mohalla - Par Nawadah, Gaya Road, P.O. + P.S. + District - Nawadah, At Presently Posted At High School, Konandpur
16. Rajendra Son Of Karu Choudhary Resident Of Village Rajapur Indaul, P.O. - Nemdarganj, P.S. Akbarpur, District - Nawadah, At Presently Posted At High School, Lal Bigha
17. Hiralal Rajwanshi Son Of Baldeo Rajwanshi Resident Of Village - Modi Bigha, P.O. - Hisua, P.S. - Hisua, District - Nawadah, At Presently Posted At R.K. Inter School, Siur
18. Munna Ram Son Of Late Bhikho Ram Resident Of Mohalla - Jail Road, P.O. + P.S. + District - Nawadah, At Presently Posted At High School, Chandi Nama
19. Satyendra Kumar Choudhary Son Of Ram Lakhan Choudhary Resident Of Village - Pandey Bigha, P.O. - Ankari, P.S. - Narhat District - Nawadah, At Presently Posted At High School, Ohati
20. Awadhesh Ravidas Son Of Bateshwar Ravidas Village + P.O. - Chakway, P.S. - Warsaliganj, District - Nawadah, At Presently Posted At High School, Pakaria
21. Rita Kumari Wife Of Satya Narayan Prasad Resident Of Mohalla - Gola Road P.O. + P.S. + District - Nawadah, At Presently Posted At High School, Roh
22. Shankar Kumar Rajak Son Of Bundi Rajak Resident Of Village - Budhaul, Jangal Beldari, P.O. - Gonawan, P.S. + District - Nawadah, At Presently Posted At High School, Sirdala
- Petitioners

Versus

1. The State Of Bihar Through Chief Secretary, Government Of Bihar, Patna
2. The Principal Secretary, Human Resources Department, Government Of Bihar, Patna
3. The Principal Secretary, Personnel And Administrative Reforms Department, Government Of Bihar, Patna
4. The Director, Secondary Education, Government Of Bihar, Patna
5. The District Officer-Cum-Collector, Nawadah
6. The District Establishment Deputy Collector, Nawadah
7. The Deputy Development Commissioner, Nawadah
8. The Additional Collector, Nawadah
9. The Office Superintendent, Nawadah Null Null
10. The District Education Officer, Nawadah
11. The Civil Surgeon Cum C.M.O., Nawadah
12. The Principal, I.T.I. Nawadah
13. The Executive Engineer, Building Division, Nawadah
14. The Executive Engineer, P.H.E.D. Nawadah
15. The Executive Engineer, Rural Engineering Division, Nawadah
16. The Executive Engineer, Phulwaria Canal Division, Nawadah
17. The Executive Engineer, Canal Division, Nawadah
18. The Deputy Collector, Nazarat, Nawadah
19. The Sub-Divisional Officer, Nawadah

20. The Sub Divisional Officer, Rajauli, Nawadah Respondents
with

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Civil Writ Jurisdiction Case No. 11057 of 2014

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1. Anil Kumar Gupta, S/o Jagdish Prasad Gupta, Resident of Village- Dhera Sarai, P.O. Jalalpur, P.S. Barsaliganj, District- Nawada
2. Raghunandan Manjhi S/o Tribhuwan Manjhi, Resident of Village- Jamui Pakaria, P.O.- Baijnathpur, P.S. Sitamarhi, District- Nawada
3. Neera Devi W/o Basant Singh, Resident of Village+P.O.+P.S.- Nawada, District- Nawada
4. Biru Rabidas S/o Late Govind Rabidas, Resident of Mohalla- Par Nawada, Gaya Road, Nawada, District- Nawada
5. Bijay Kumar, S/o Baldeo Prasad, Resident of Village- Lohani Bigha, P.O.- Gonawan, P.S. Nawada, District- Nawada
6. Awadhesh Paswan, S/o Arjun Paswan, Resident of Village- Kharijama, P.O.- Samhalgarh, P.S. Roh, District- Nawada
7. Satish Kumar Paswan, S/o Ram Swarup Paswan, Resident of Village- Pipra, Pokhar, P.O.+P.S.- Pakri Baraon, District- Nawada
8. Dinesh Paswan S/o Lakhan Paswan, Resident of Village + P.O. + P.S.- Roh, District- Nawada
9. Rajendra Kumar S/o Bisundeo Narayan, Resident of Gola Road, Nawada, P.O.+P.S.- Nawada, District- Nawada
10. Shankar Kumar S/o Sahdeo Pandit, Resident of Village + P.O. + P.S.- Pakri Baraon, District- Nawada
11. Krishna Gopal Das, S/o Bindo Rabidas, Resident of Ambedkar Nagar, Gaya Road, Nawada, District- Nawada
12. Jogendra Prasad Singh, S/o Late Radhey Singh, Resident of Garhpar, Near Imambara, Nawada, District- Nawada
13. Kaushlendra Kumar Pandey, S/o Shurtdeo Pandey, Resident of Village + P.O.- Konan, P.S.- Sikandara, District- Jamui Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
3. The District Magistrate, Nawada
4. The Deputy Development Commissioner, Nawada
5. The Director-in-Chief, Health Services, Government of Bihar, Patna
6. The Civil Surgeon, Nawada Respondents

with

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Civil Writ Jurisdiction Case No. 20734 of 2013

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1. Manoj Kumar Mishra S/O Late Kailash Mishra R/O Village- Budhaul, P.S+ Distt- Nawadah.
2. Rubi Devi W/O Late Sanjay Kumar Sinha R/O Vill- Jhaur, P.S- Warishaliganj, Distt- Nawadah.
3. Dinesh Paswan S/O Lakhan Paswan Resident Of Vill- Roh, P.S- Roh, District- Nawada. Petitioners

Versus

1. The State Of Bihar Through Principal Secretary, Department Of Health Service, Bihar, Patna.
 2. The Director In- Chief, Health Service, Bihar, Patna.
 3. The District Magistrate, Nawada, Distt- Nawada.
 4. The Civil Surgeon- Cum- Chief Medical Officer, Nawada, District- Nawada.
- Respondents

with

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Civil Writ Jurisdiction Case No. 15887 of 2014

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Rakesh Kumar Kundan S/o Sri Rameshwar Prasad resident of Mohalla - Navin Nagar, Near Goverdhan Mandir, Nawada, P.S. AND Distt. Nawada .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, General Administration Department Government of Bihar, Patna
3. The Director in Chief Health Services, Government of Bihar, Patna
4. The District Magistrate, Nawada, P.S. AND Distt. - Nawada
5. The Civil Surgeon - Cum - Chief Medical Officer, Nawada Respondents

with

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Civil Writ Jurisdiction Case No. 15284 of 2014

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1. Aradhana Kumari Wife of Sudhakar Prasad, Resident of Village AND P.O. - Farha, District - Nawadah, Presently posted at Primary Health Centre, Pakaribarawan, Nawadah.
 2. Md. Athar Hussain Son of Md. Aasin Resident of Villae AND P.O. - Rajhat, P.S. - Akbarpur, District- Nawadah, at presently posted at Primary Health Centre, Kawakol, District - Nawadah.
- Petitioners

Versus

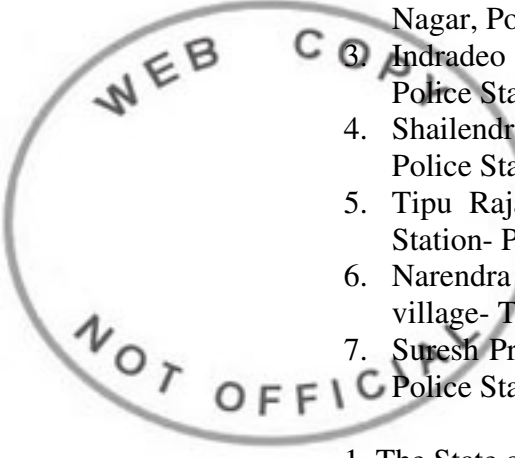
1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary, Health Education and Family Welfare Department, Government of Bihar, Patna.
 3. The Principal Secretary, Personnel AND Administrative Reforms Department, Government of Bihar, Patna.
 4. The Director In Chief, Health Services, Bihar, Patna.
 5. The District Officer-cum-Chairman District Eastablishment Committee, Nawadah.
 6. The District Establishment Deputy Collector, Nawadah.
 7. The Deputy Development Commissioner, Nawadah.
 8. The Additional Collector, Nawadah.
 9. The Civil Surgeon cum Chief Medical Officer, Nawadah.
 10. The Deputy Collector, Nazarat, Nawadah.
 11. The Sub-Divisional Officer, Nawadah.
 12. The Sub-Divisional Officer, Rajauli, Nawadah.
- Respondents

with

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Civil Writ Jurisdiction Case No. 7277 of 2014

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1. Ravindra Kumar Verma Son of Sri Shyam Lal Prasad Resident of Mohalla- Ram Nagar, Near Durga Mandir, P.S- Nawada (Town), District- Nawada.
 2. Ravindra Kumar Verma Son of Sri Mahavir Mahto Resident of Mohalla- Ram Nagar, Police Station- Nawada (Town), district- Nawada.
 3. Indradeo Paswan Son of Late Raghu Paswan Resident of Village- Nauabagi, Police Station- Hisua, District- Nawada.
 4. Shailendra Prasad Singh Son of Sri Ramdeo Singh Resident of Village Hudrahi, Police Station- Pakribarawan, District- Nawada
 5. Tipu Rajak son of Sri Manjo Rajak Resident of village- Budhouli, Police Station- Pakaribarawan, District- Nawada.
 6. Narendra Kumar Sinha Son of Late Alakhdeo Narayan Sinha Resident of village- Teyar, Police Station- Akbarpur, District- Nawada.
 7. Suresh Prasad Singh Son of Sri Alakhdeo Singh Resident of village Chhatihar, Police Station- Hisua, District- Nawada. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt.of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Nawada.
4. The Deputy Development Commissioner, Nawada.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 9934 of 2014

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1. Nitya Kumar Sinha Son of Late Visheshwar Dayal resident of Village - Pachiyari Tola, Narhat, P.S. - Narhat, District - Nawada.
2. Manti Kumari Wife of Narayan Prasad resident of Village - Devki Bigha, P.S. - Sadar, District - Nawada.
3. Pramod Kumar Son of Late Parmeshwar Dayal resident of Village - Kahuara, Nardiganj, P.S. - Nardiganj, District - Nawada.
4. Raju Kumar Son of Late Nagendra Prasad resident of Hanuman Nagar, Maranpur, P.S. - Chandchaura, Civil Line District - Gaya.
5. Anil Kumar Sharma Son of Tuneshwar Singh resident of Village - Kutri, P.S. - Warsaliganj, District - Nawada.
6. Santan Kumar Son of Late Mosafir Singh resident of village - Panchu Bigha, P.S. - Hasua, District - Nawada. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
 3. The District Officer (Zila Padadhikari), Nawada.
 4. The Deputy Development Commissioner, Nawada.
 5. The Civil Surgeon Cum Chief Medical Officer, Nawada. Respondents
- =====

Appearance :

(In CWJC No.6338 of 2014)

For the Petitioner/s : Mr. Tej Bahadur Singh, Sr. Adv.
Mr. Dr. Anjani Prasad Singh
For the Respondent/s : Mr. Raju Giri, GP30
Mr. Nikhil Kumar Agarwal

(In CWJC No.7703 of 2014)

For the Petitioner/s : Mr. Tej Bahadur Singh, Sr. Adv.
Mr. Dr. Anjani Prasad Singh
For the Respondent/s : Mr. Partha Sarthy, GA-11
Mr. Mrigendra Kumar, AC to GA 11

(In CWJC No.11664 of 2013)

For the Petitioner/s : Mr. Banwari Sharma
Mr. Sanjay Kumar Sinha
Mr. Pankaj Kumar Sinha

For the Respondent/s : Mr.

(In CWJC No.11057 of 2014)

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Adv.
Mr. Mukesh Kumar Singh
Mr. Rajeev Kumar Singh
Mr. Ramakant Singh
Mr. Rakesh Kumar Singh
For the Respondent/s : Mr. Tej Pratap Singh, AC to GP 17
Mr. Binod Jee Verma, GP-17

(In CWJC No.20734 of 2013)

For the Petitioner/s : Mr. Dr. Anjani Pd. Singh
For the Respondent/s : Mr. Prashant Pratap
Mr. Rajesh Kumar

(In CWJC No.15887 of 2014)

For the Petitioner/s : Mr. Dr. Anjani Pd. Singh
For the Respondent/s : Mr. Prashant Pratap
Mr. Rajesh Kumar

(In CWJC No.15284 of 2014)

For the Petitioner/s : Mr. Sanjay Kumar Sinha
Mr. Shiv Kumar
For the Respondent/s : Mr. Ajay Behari Sinha, SC19
Mr. Neeraj Raj, AC to SC 19

(In CWJC No.7277 of 2014)

For the Petitioner/s : Mr. Rajendra Narayan, Sr. Adv.
Mr. Rabi Bhushan Prasad-1
For the Respondent/s : Mr. Naseem Yahya, GP13
Mr. Ratnakar Ambastha, AC to GP 13

(In CWJC No.9934 of 2014)

For the Petitioner/s : Mr. Pankaj Sinha
Mrs. Archana Prasad
For the Respondent/s : Mr. Sharad Kumar Sinha, GP15

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 17-03-2016

All the writ petitioners were appointed as Class IV employees in different offices of Nawada district from the list of 2004 select panel. They have subsequently been terminated from service by their respective head of departments. They have challenged their termination in these batch of writ applications. By way of illustration the reliefs sought in one of the writ petitions, i.e. C.W.J.C.No. 6338 of 2014 are quoted herein below:-

For quashing order dated 18.5.2013, passed vide Memo nos. 417, 1395, 1284, 1407, 1409, 1400, 1303, 1414, 1374, 1403, 1385, 1372, 1388, 1382, issued by Civil Surgeon cum Chief Medical Officer, Nawada and for their reinstatement with full back wages. They have further prayed for quashing Memo no. 13/Mu. dated 13.4.2013, passed by the District Magistrate, Nawada, upon which order dated 18.5.2013 has been passed.

2. Before I consider the grounds on basis of which, the reliefs have been claimed, it would be relevant to notice the facts of the case in brief:-

3. The petitioners were engaged in Nawada district on daily wage basis, between 1987 to 97. Some of the daily wages employees, namely Umesh Prasad Yadav and others, moved this Court in C.W.J.C.No. 769/97 for regularization of their service. The case before the learned Single judge was, that they were engaged



between 1987-97, as casual workers, and are performing their duties on regular basis. Their names were also enlisted in the 1984 panel prepared at the district level. The panel was short listed in June 1997, in which their names once again figured as daily wage employees. The learned single judge after hearing the parties disposed of the writ petition with direction to the District Magistrate to properly finalize the panel of Class IV employees in accordance with the guidelines laid down in circular no. 16, dated 3.12.1980 as amended by letter, dated 25.4.1997. Another writ petition, being C.W.J.C.No. 7780 of 1998 was disposed of on 1.11.1999 in similar terms. It appears that when in spite of order of this Court, passed in C.W.J.C.No. 7780 of 1998 and 7691 of 1997, no concrete steps were taken by respondents, a contempt petition was filed by one Harendra Prasad Sinha, bearing MJC no. 2090 of 2001. The MJC was disposed of on 18.5.2004 in view of the submissions made on behalf of the State that matter has already been referred to the concerned officials for consideration in light of order of this Court.

4. It is relevant to state that an advertisement was published by the District Magistrate Nawada on 17.1.2004 for appointment of class IV employees in light of earlier order of this Court. The District Magistrate vide memo, dated 10.12.2004



constituted 11 members committee for appointment of class IV employees. After due verification and scrutiny of respective cases, the District Establishment Committee prepared a panel of selected candidates commonly described as 2004 panel published on 24.9.2005. Names of petitioners figured in the said panel. The District Magistrate, Nawada requested the State Government for allotment of necessary fund to ensure payment to selected candidates. The Government vide letter, dated 28.11.2005 (Annexure 8/1) directed the District Magistrate, Nawada to proceed with the appointment of Class IV employees for which fund were to be allocated in the supplementary budget. The fund was duly allocated by the Government which finds due mention in letter, dated 30.3.2006 of Rural Development Department. It is relevant to state that initially a panel of 372 candidates was prepared for appointment to the post of Class IV grade. After considering the roster wise vacancy from the district wise vacancy, the selection committee recommended only 178 candidates for appointment. Out of 178 candidates, 32 were of collectoriate cadre, 34 of the District Education Office, 53 were of office of Civil Surgeon, 18 were of Phulbaria Nahar division and 3 were of Consumer Protection Forum. As such, finally out of 178 candidates, only 130 candidates were appointed. The names of petitioners figured in the

list of appointed candidates.

5. Some of the aggrieved persons who were either not appointed or whose names did not figure in the select list of 2004 panel, moved this Court in C.W.J.C.No. 2641 of 2005. They also raised a grievance that while preparing 2004 panel, the candidates of 2002 panel have been overlooked. After hearing the parties, the learned Single judge vide order, dated 28.11.2005 referred the matter to the Department of Vigilance for necessary verification and enquiry. The Vigilance department enquired into the matter and submitted its enquiry report on 13.7.2010 as contained in Annexure 22. In the enquiry report, dated 13.7.2010, the Vigilance Department observed that in view of errors occurring in 2004 Panel, either correction in the panel be done or it may be scrapped. In short, the vigilance department concluded that the panel was not prepared properly and daily wages employees, who were working from the beginning were overlooked and not selected. The Vigilance department opined that either the 2004 panel needs to be suitably amended or to be rejected.

6. This Court vide order, dated 12.7.2010, passed in C.W.J.C.No. 15961 of 2006 directed the District Administration, Nawada to take necessary action in the light of the report of the Vigilance department. The District Magistrate, Nawada vide memo



no. 38, dated 14.1.2011 (Annexure 19) constituted a five men committee headed by the District Development Commissioner to submit its response in view of the enquiry report submitted by the Vigilance department. The committee in its meeting held on 29.10.2011 took a decision to rectify the 2004 panel. It also decided to publish a general notice for candidates concerned to make their objections for amendment of panel.

7. While the aforesaid exercise was in contemplation, the earlier District Magistrate was transferred and a new District Magistrate took over charge. On taking over the charge, the new District Magistrate called a meeting of the District Establishment Committee for taking fresh stalk of the prevailing situation in light of the vigilance report. The District Establishment Committee headed by the District Magistrate, Nawada in its meeting, dated 24.11.2011, decided to scrap 2004 panel holding the same to be unconstitutional having been prepared in breach of Government circulars. The Committee directed that the candidates should be noticed and necessary steps should be taken. The decision of the Establishment Committee was communicated to the different officials of the district including the office of Civil Surgeon, the Education department etc.

8. As a follow up measure, the District Magistrate,



Nawada vide Memo no. 483, dated 23.8.2012 constituted a five men committee under the Chairmanship of the District Development Commissioner to make necessary enquiry and furnish a report in tabular form with respect to the employees appointed from 2004 panel. The committee in its report found nothing irregular in selection of a number of candidates. In the meantime, another contempt petition, bearing MJC no.3938 of 2011 came for hearing. The District Magistrate appeared on 21.3.2013 and assured the court that the final decision would be taken in the matter in a short time. The District Magistrate called an urgent meeting of the District Establishment Committee on 13.4.2013 and ultimately decided to discharge the services of all the employees who were appointed from 2004 panel. A copy of letter, dated 13.4.2013 is contained in Annexure 2, which equally applied to all the candidates who were appointed from select list of 2004 panel. Consequent to the letter, dated 13.4.2013, the respective heads of the departments vide different memos, all dated 18.5.2013 cancelled the appointments. The letters, dated 13.4.2013, and 18.5.2013 are impugned in this batch of writ petitions.

9. Petitioners have assailed the impugned actions of respondents on a number of grounds. They submit that they have been discharged from services, as primarily the panel (2004 Panel)



from which they were recruited, was cancelled on 24.11.2011 by the District Establishment Committee. They submit that the impugned resolution, dated 24.11.2011 was passed without affording an opportunity to them to defend 2004 panel and their enlistment in the panel. They submit that subsequent show cause issued in the year 2012-13 was empty formality as the authorities had already taken a decision to scrap the panel in the year 2011. A notice in fact ought to have been issued prior to scrapping of panel.

10. In support of their submissions, the petitioners relied upon decision in case of Oryx Fisheries Private Ltd. Vs. Union of India reported in (2010)13 SCC 427, particularly paragraph 31 which is quoted herein below:-

“31. It is of course true that the show cause notice cannot be read hyper-technically and it is well settled that it is to be read reasonably. But one thing is clear that while reading a show-cause notice the person who is subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show cause notice and prove his innocence. If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show cause notice will be an empty ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show cause notice does not commence a fair procedure especially when it is issued in a quasi-judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defence.”

11. They also contend that the panel was prepared after



issuance of advertisement and after following the rules of reservations and roster scheme of the State Government. They next submit that they have been working on daily wage basis since 1986-89 continuously against vacant posts, and as such they would qualify in terms of the decision rendered in case of State of Karnataka Vs. Uma Devi, reported in 2006(1)SCC 1. Furthermore, most of them were engaged more than 25 to 27 years ago and now they have become over age for any other Government job.

12. Counsel for the State submits that 2004 panel from which the petitioners were appointed, was challenged in this court by some of the aggrieved persons giving rise to a number of writ petitions, including C.W.J.C.No. 2641 of 2005. This Court after hearing the parties disposed of the writ petition on 28.11.2005 observing that the State and its officials have not acted in appropriate manner while preparing 2004 panel. The learned judge referred the entire matter to the Cabinet Vigilance department to make necessary enquiry as to whether the same has been prepared contrary to the directions of the Government with a view to detect the real beneficiary entitled to the selection. Relevant extract of order dated 28.11.2005 is quoted here in below:-

“In these circumstances, it appears to me that the State and its officers have not acted in the manner they were required to act when the 2004 panel was prepared. In those circumstances, the entire matter pertaining to preparation of

2004 panel is sent to the cabinet vigilance department with direction upon them to make an enquiry as to how the 2004 panel was prepared and if the same had been prepared contrary to the directions of the Government and for the purpose of making available to any person a benefit to which he was otherwise not entitled to them the Cabinet Vigilance Department is directed to initiate appropriate proceedings against that beneficiary as well as the benefitor in accordance with law.”

13. Counsel for the State further argued that on enquiry the Vigilance department found a number of irregularities in preparing 2004 panel, as such, it recommended either to rectify the panel or to scrap the entire panel.

14. I have heard learned counsel for the parties and perused the materials on record.

15. The facts of the case is not much in dispute. Petitioners were employed in Nawada district on daily wages basis in between 1987 to 1997. Some of the employees filed C.W.J.C.No. 7691 of 1997 for regularization. The writ petition was disposed of on 10.11.1997 with direction to the District Magistrate to finalize the panel of Class IV employees in accordance with the modified guidelines laid down in circular letter no.16441, dated 3.12.1980 and letter, dated 25.4.1997. Another writ petition, being C.W.J.C.No. 7780/1998 was disposed of on 1.11.1999 in similar terms. As order of the High court was not complied with, contempt petitions came to be filed. Finally 2004 panel was prepared and



published in 2005. Some of the aggrieved persons challenged the 2004 panel in C.W.J.C.No. 2641 of 2005 on the ground that persons who were working earlier to 1992 were not considered. This Court by order, dated 28.11.2015, passed in C.W.J.C. No.2641 of 2005 observed that prima facie the preparation of panel was not in accordance with law and contrary to the direction of the State Government which defeated the claims of beneficiaries entitled to selection. Vigilance department after due enquiry submitted its report, dated 22.11.2005 observing some noticeable irregularities in preparation of panel. The Vigilance department as such suggested either to rectify the panel or to scrap 2004 panel. Earlier the District Establishment Committee decided to rectify the panel in its meeting, dated 20.10.2011. Later on the District Establishment Committee, headed by the District Magistrate, Nawada vide resolution, dated 24.11.2011 decided to scrap the panel as the same was prepared in violation of constitutional mandate and Government circulars.

16. In terms of resolutions, dated 24.11.2011 of the District Establishment Committee headed by the District Magistrate, explanations were sought for, from the aggrieved persons. Again on 13.4.2013, the District Establishment Committee decided to discharge the services of all the appointees from 2004



penal, as the same was already scrapped on 24.11.2011 as having been prepared in violation of Government circulars. Case of the petitioners is that no show cause notice was given prior to scrapping 2004 panel on 24.11.2011. It was only after scrapping the panel on 24.11.2011, notice were given to the petitioners and others, to submit their explanations which was empty formality. It is further case of the petitioner that on consideration of show cause five men committee did not find appointment of most of them to be in order.

17. It is not abundantly evident from report of five men committee prepared in tabular form that the discrepancies noticed in Vigilance enquiry set up by this Court were duly addressed. As such, I direct the Principal Secretary, General Administration Department, Government of Bihar (respondent no.2) to once again take an exercise whether it is possible to prepare a rectified panel after meeting the discrepancies as pointed out by the Vigilance department. It is expected that such exercise should be completed within a period of six months from the date of receipt of a copy of this order. If personal hearing is sought, the learned Principal Secretary would provide hearing to one or two persons in representative capacity. In case, after due scrutiny, the aforesaid candidates stand out successful, necessary order for their

reinstatement would be issued.

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

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(Samarendra Pratap Singh, J)

