

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8215 of 2014

- =====
1. Shiy Shankar Pandey, Son of Chandrashekhar Pandey, Resident of Village + P.O.- Rampur Kala, P.S.- Khairah, District- Saran, Bihar
 2. Munna Kumar Yadav, Son of Mahendra Ray, Resident of village + P.O.- Shobhepurm, Via- Garkha, P.S.- Bheldi, District- Saran, Bihar
 3. Jitendra Kumar Das, son of Satya Narayan Ram, Resident of village- Afour East Tola, P.O.- Afour, P.S. Khairah, District- Saran, Bihar
 4. Satish Kumar Singh, Son of Sayadev Singh, Resident of village- Narauni Tola, P.O. + P.S. Amnour, District- Saran, Bihar
 5. Mukesh Kumar, Son of Shatrughan Prasad, Resident of Muhalla- Husse Chapra, P.O.- Chapra, P.S.- Town Chapra, District- Saran, Bihar
 6. Raju Kumar Sharma, Son of Malik Chandra Sharma, Resident of village- Sisawan Rashulpur, P.O.- Nagara, P.S.- Marhawrah, District- Saran, Bihar
 7. Shyam Babu Prasad, Son of Nagnarayan Prasad, Resident of village- Rampur, P.O. + P.S.- Nagara, District- Saran, Bihar
 8. Mukesh Kumar, Son of Wakil Ray, Resident of village- Salempur, P.O.- Sutihaar, P.S.- Derani, District- Saran, Bihar
 9. Aji Ansari, Son of Jan Muhammad, Resident of village- Imadpur, P.O.- Matiyar, P.S.- Manjhi, District- Saran.
 10. Imam Hasan Khan, Son of Abdul Hasan Khan, Resident of village- Sonevarsa, P.O. + P.S.- Manjhi, District- Saran, Bihar
 11. Jay Ram Yadav, Son of Banarasi Yadav, Resident of village- Samhota, P.O.- Kopa Samhota, P.S.- Kopa, District- Saran, Bihar
 12. Ranjay Kumar Yadav, son of Sri Bhagwan Prasad Yadav, Resident of village- East Rouja, P.O.- Chapra, P.S.- Town Chapra, District- Saran, Bihar
 13. Ram Ladu Ray, son of Ram Lakhan Ray, Resident of village- Gharu Tola East Rouja, P.O. Chapra, P.S.- Town Chapra, District- Saran, Bihar
 14. Ganesh Kumar, Son of Shankar Ray, Resident of village + P.O.- Gheghata, P.S.- Chapra Muffasil, District- Saran, Bihar
 15. Ranjit Kumar Yadav, Son of Raghubir Ray, Resident of village- East Rouja, P.O.- Chapra, P.S.- Town Chapra, District- Saran, Bihar
 16. Hardan Prasad, Son of Ram Prit Mahato, Resident of village- Rouja, P.O.- Chapra, P.S.- Town Chapra, District- Saran, Bihar
 17. Raj Kumar, Son of Punyadev Mahato, Resident of village- + P.O.- Musehari, P.S.- Muffasil Chapra, District- Saran, Bihar
 18. Dharm Prakash Ray, son of Late Satish Ray, Resident of village- Hevantpur (Manpur), P.O.- Dighwara, P.S.- Dariyapur, District- Saran, Bihar

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Special) Department, Govt. of Bihar, Patna
2. The Commandant General, Home Guards Services, Bihar, Patna
3. The District Magistrate Cum-Chairman, Home Guards District Selection Committee, Chapra, Saran, Bihar
4. The Superintendent of Police Cum- Member, Home Guards District Selection Committee, Chapra, Saran, Bihar
5. The District Commandant, Home Guard, -Cum-Member Secretary, Home Guards District Selection Chapra, Saran, Bihar

- 6. The District Welfare Officer, Cum-Member, Home Guards District Selection Committee, Chapra, Saran, Bihar
- 7. The D.I.G. Chapra, Saran, Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sushil Kumar Singh, Advocate
For the Respondent/s : Mr. Mahendra Prasad Verma,
AC to SC-20
For the Intervener : Ms. Rajni Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 24-08-2016

Heard learned counsels for the parties.

It is not a case of appointment on the post of Home-Guard, but a case of enlistment or enrollment as Home-Guard, for which an exercise was carried out in terms of Annexure-1.

The grievance of these petitioners is that even though they qualified in the physical test etc., they have not been enrolled and people with lesser capability and performance in the examination, physically or otherwise, have been enrolled. It is also their case that this position can be verified from the video-recording, which was done during the said exercise.

Many a things have been said with regard to the exercise done by the respondents in terms of the developments, but the stand of the State is that the enrollment and enlistment was done for a very limited

number of openings and posts. The break-up are available in Annexure-A. It was further subjected to further division caste-wise for reservation. Therefore, net opening for such enlistment is not even in the double digits for any of the blocks.

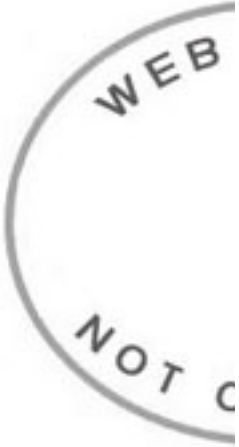
Merely clearing the process of selection does not ensure enlistment or enrollment for after all the vacancy as well as the reservation position will have to be given due weightage.

Counsel for the State has very clearly and categorically explained the status of these petitioners and the reason for their non-enlistment from paragraph 7 onwards of their counter affidavit.

In view of the above, the petitioners are seeing much more than what actually exist as the reason for their non-enlistment.

Counsel for the petitioner thereafter submits that in the advertisement for Nagara Block, vacancy was shown. However, after the process was completed, the respondents are taking a plea that there is no vacancy and this position cannot be accepted at this juncture.

The Court can only say that it is the employer, who knows best. If there was some kind of omission in publication of the advertisement that by itself does not



indicate existence of vacancy. If the respondents have taken a categorical stand in the counter affidavit that there are no vacancies for the said Block, then the Court has no other inputs or mechanism to come to a contrary finding.

Writ application, therefore, has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	29.08.2016
Transmission Date	