

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10534 of 2016

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1. Sanjay Ram, son of Baliram Ram, resident of village, P.O.+ P.S.- Ramgarwa, Dist.- East Champaran.
 2. Guriya Kumari, wife of Ranjeet Kumar, resident of village & P.O.- Jagapakar, P.S. Harsidhi, District- East Champaran.
 3. Jagjiwan Ram, son of Harihar Ram, resident of village- Dudhwalia, P.O. Maude, P.S. Ramgarwa, District- East Champaran.
 4. Gyanti Ram, son of Ashok Ram, resident of village- Jail Murarpur, P.O. Murarpur, P.S. Harsidhi, District- East Champaran.
 5. Jagdish Narayan Ram, son of Parikshan Ram, resident of village+ P.O.- Jitaura, P.S.- Madhuban, District- East Champaran.
 6. Rambha Devi, wife of Lalbabu Ram, resident of village- Gulab Kha Birati P.O. Rupani, P.S.- Madhuban, District- East Champaran.
 7. Rabikant Ram, son of Bilas Ram, resident of village- Maripur Mal P.O. Khodadpur, P.S.- Madhuban, District- East Champaran.
 8. Sanjay Ram, son of Mahendra Ram, resident of village- Gulabkhabisti, P.O. Rupani, P.S.- Madhuban, District- East Champaran.
 9. Rekha Kumari, wife of Jaymangal Ram, resident of village- Maripur Milki P.O. Khodadpur, P.S.- Madhuban, District- East Champaran.
 10. Punam Kumari, wife of Bikash Ram, resident of village- Ujhilpur, P.O. Maheshi, P.S. Mehashi, District- East Champaran.
 11. Ranjeet Kumar, son of Late Badari Baitha, resident of village- Siswa Kachari Tola, P.O. Siswa, P.S. Banjariya, District- East Champaran.
 12. Ranjeet Kumar Ram, son of Gudar Ram, resident of village+ P.O.- Phulwariya, P.S. Sugauli, District- East Champaran.
 13. Rajesh Ram, son of Late Harichandra Ram, resident of village- Darpa, P.S. Darpa, District- East Champaran.
 14. Mahendra Ram, son of Dhorai Ram, resident of village- Jatwa, P.O. Siswaniya, P.S. Banjariya, District- East Champaran.
 15. Ram Vinay Kumar Ram, son of Vashudev Ram, resident of village- Devdatwa, P.O. Bagahi, P.S. Sugauli, District- East Champaran.
 16. Navin Kumar, son of Harishankar Ram, resident of village- Deluaha, P.O. Jhitakahiya, P.S. Rajepur, District- East Champaran.
 17. Kavita Kumari, wife of Ramagya Baitha, resident of village- Ajagari Churharwa Tola, P.O. Ajagari, P.S. Banjariya, District- East Champaran.
 18. Ramdayal Baitha, son of Nathu Baitha, resident of village+ P.O.- Gamhariya Kala, Block- Adapur, P.S. Darpa, District- East Champaran.
 19. Paritosh Kumar, son of Devdhari Ram, resident of village+ P.O.- Ajagari Math, P.S. Banjariya, District- East Champaran.
 20. Rampujan Ram, son of Harishankar Ram, resident of village- Lakshumanwa, P.O. Saunaha, P.S. Palnwa, District- East Champaran.
 21. Aalka Kumari, son of Kashiram, resident of village+ P.O.- Kushahra, P.S.- Turkauliya, District- East Champaran.
 22. Raja Ram, son of Chandradiv Ram, resident of village- Vijulpur Jirat, P.O. Chayanpur, P.S. Turkauliya, District- East Champaran.
 23. Surendra Ram, son of Rekha Ram, resident of village- Machhariya, P.O. Chailhan, P.S. Turkauliya, District- East Champaran.
 24. Rajesh Ram, son of Ramchandra Ram, resident of village- Bairiya, Bajarangi, P.O. Damodarpur, P.S. Pipra, District- East Champaran.



25. Ratnesh Kumar, son of Basarath Ram, resident of village- Vidulpur, P.O. Chayanpur, P.S. Turkauliya, District- East Champaran.
26. Ranjan Ram, son of Prasad Ram, resident of village- Shankar Saraiya, Falwari Tola, P.S. Turkailiya, District- East Champaran.
27. Munnilal Ram, son of Musafir Ram, resident of village- Bairiya, Bajarangi, P.O. Damodarpur, P.S. Pipra, District- East Champaran.
28. Om Prakash Ram, son of Satynarayan Ram, resident of village- Arariya, P.O. Samanpura, P.S. Kundwa, District- East Champaran.
29. Krishn Kumar Ram, son of Tapsi Ram, resident of village- Bankat, P.O. Pahariya, P.S. Pahariya, District- East Champaran.
30. Virendra Ram, son of Danesh Ram, resident of village- Kairwa Kothi, P.O. Pahariya, P.S. Pahariya, District- East Champaran.
31. Rajesh Baitha, son of Kailash Baitha, resident of village+ P.O.- Samanpur, P.S. Kundwa Chayanpur, District- East Champaran.
32. Ramagya Ram, son of Late Bhikhari Ram, resident of village- English, P.O. Naudiha, P.S.- Paharpur, District- East Champaran.
33. Ravina Kumari, daughter of Jaymangal Ram, resident of village- Sirvali, P.O. Gheghwa, P.S. Tetariya, District- East Champaran.
34. Shashibhushan Ram, son of Rajwanshi Ram, resident of village+ P.O.- Nonaura, P.S.- Ghorasahan, District- East Champaran.
35. Rajesh Kumar, son of Ramadhar Ram, resident of village- Silwa Chaube Tola, P.O. Siswa Bazar, P.S. Paharpur, District- East Champaran.
36. Rashmi Priya, wife of Rambachan Ram, resident of village- Dulash, P.O. Tetariya, P.S. Tetariya, District- East Champaran.
37. Ganesh Baitha, son of Vindeshari Baitha, resident of village- Dundiywa Saraiya, P.O. Saraiya Bazar, P.S. Paharpur, District- East Champaran.
38. Raj Kishor Kumar, son of Kapildeo Ram, resident of village- Siswashabe, P.O. Baglolpur, P.S. Kalyanpur, District- East Champaran.
39. Sunyan Devi, wife of Prabhu Kumar, resident of village+ P.O.- Gariba, P.S.- Kalyanpur, District- East Champaran.
40. Subod Kumar, son of Nandu Ram, resident of village- Balibelwa, P.O. Pakribikashit, P.S. Kalyanpur, District- East Champaran.
41. Ram Prawesh Kumar Baitha, son of Babulal Baitha, resident of village- Patkhwaliya, P.O. Koyala Belwa, P.S. Kalyanpur, District- East Champaran.
42. Pinki Kumari, wife of Sukhal Ram, resident of village & P.O.- Rupahra, P.S. Chiraiya, District- East Champaran.
43. Virendra Ram, son of Late Surat Ram, resident of village- Virata Tola, P.O. Ahirwaliya, P.S. Chiraiya, District- East Champaran.
44. Rajesh Ram, son of Ganesh Ram, resident of village- Rajpur Kaulmarapa, P.S. Phenhra, District- East Champaran.
45. Meera Kumari, wife of Jaylal Ram, resident of village- Rupauliya, P.O. Kumgrar, P.S. Phenhra, District- East Champaran.
46. Vishundev Ram, son of Saryug Ram, resident of village & P.O. Vijawani, P.S. Jitana, District- East Champaran.
47. Ajay Kumar Ram, son of Saryug Ram, resident of village & P.O. Vijawani, P.S. Jitana, District- East Champaran.
48. Anand Kumar Ram, son of Kishore Ram, resident of village- Godhasahan, Bhaganpur, Uttari Panchayat P.O. & P.S. Godhasahan, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Govt.



of Bihar, Patna.

2. District Magistrate, East Champaran, Motihari.
3. Deputy Collector, Establishment, East Champaran, Motihari.
4. Additional Collector, East Champaran, Motihari.
5. District Education Officer-Cum- District Programme Officer (Literacy) East Champaran, Motihari.
6. Block Education Officer, Adhapur, Dist.- East Champaran, Motihari.
7. Block Education Officer, Banjari, Dist.- East Champaran, Motihari.
8. Block Education Officer, Bankatwa, Dist.- East Champaran, Motihari.
9. Block Education Officer, Chakia, Dist.- East Champaran, Motihari.
10. Block Education Officer, Chhaurandano, Dist.- East Champaran, Motihari.
11. Block Education Officer, Chiraiya, Dist.- East Champaran, Motihari.
12. Block Education Officer, Dhaka, Dist.- East Champaran, Motihari.
13. Block Education Officer, Ghorasahan, Dist.- East Champaran, Motihari.
14. Block Education Officer, Harsidhi, Dist.- East Champaran, Motihari.
15. Block Education Officer, Kalyanpur, Dist.- East Champaran, Motihari.
16. Block Education Officer, Kesaria, Dist.- East Champaran, Motihari.
17. Block Education Officer, Madhuban, Dist.- East Champaran, Motihari.
18. Block Education Officer, Mehshi, Dist.- East Champaran, Motihari.
19. Block Education Officer, Paharpur, Dist.- East Champaran, Motihari.
20. Block Education Officer, Pakridyal, Dist.- East Champaran, Motihari.
21. Block Education Officer, Patahi, Dist.- East Champaran, Motihari.
22. Block Education Officer, Phanhara, Dist.- East Champaran, Motihari.
23. Block Education Officer, Ramgarhwa, Dist.- East Champaran, Motihari.
24. Block Education Officer, Raxaul, Dist.- East Champaran, Motihari.
25. Block Education Officer, Sugauli, Dist.- East Champaran, Motihari.
26. Block Education Officer, Tetaria, Dist.- East Champaran, Motihari.
27. Block Education Officer, Turkaulia, Dist.- East Champaran, Motihari.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Adv.

For the Respondent/s : Mr. Dhurjati Kr.Prasad, G.P.7

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-05-2017

Heard Mr. Mukul Sinha, learned counsel appearing for the petitioner and Mr. Dhurjati Kumar Prasad, learned G.P.7 for the State.

The petitioners are aggrieved by the office order bearing Memo No.141 dated 22.4.2016 whereby their appointment against the post of Tola Sevaka/ Shiksha Swayam Sevaks has been cancelled inter alia



on grounds that the appointment was in excess of the vacancies.

Although Mr. Sinha learned counsel for the petitioner initially endeavoured to justify the appointment of the petitioner relying upon the vacancies notified by the District Programme Officer, East Champaran bearing No.374 dated 18.7.2014 vide Annexure-5 but on a contest being raised by Mr. Prasad learned State counsel in reference to the advisory issued by the Principal Secretary, Education Department, Bihar, Patna dated 12.4.2016 placed at Annexure-9, Mr. Sinha chose to modify his contention and adopt a path of least resistance in relying upon the order of the District Education Officer present at Annexure-11 dated 12.1.2017 to submit that since there are yet admitted 49 vacancies to the post of Tola Sevak/Shiksha Swayam Sevaks and these petitioners have worked against the post for a period of almost a year, the respondents could consider their candidature as against these 49 admitted vacancies.

Per contra, it is the submission of Mr. Prasad that no doubt the petitioners herein are 47 in numbers and the vacancies are 49 but the termination order impugned at Annexure-1 shows that 113 Tola Sevaks/ Shiksha Swayam Sevaks have been terminated and thus if the respondents are directed to consider the eligibility of these terminated Tola Sevaks/ Shiksha Swayam Sevaks as against the 49 vacancies then the case of each of them would merit consideration.



While this Court in view of the position explained by the Principal Secretary, Education Department at Annexure-9, is not persuaded to interfere with the order dated 22.4.2016 impugned in the writ petition but considering the submission advanced by Mr. Sinha relying upon the recommendation at Annexure-11 and taking note of the vacancies as well as the circumstances explained by Mr. Prasad, I am of the opinion that the issue can be well resolved by the respondents in considering the case of the persons whose names finds mention at Annexure-1 for their appointment as against the admitted 49 vacancies. In fact justice would be met by a direction to the Principal Secretary, Education Department to consider the claim of the petitioners and issue appropriate direction to the authority concerned to take steps for filling up the 49 admitted vacant posts in accordance with law bearing in mind the fact that these persons whose name finds mention at Annexure-1 have gained experience over the period and which may be a relevant factor in the matter of filling up of the post.

Let the process be completed within a period of 8 weeks from the date of receipt/production of a copy of this order.

The writ petition is disposed of accordingly.

Bibhash/-

(Jyoti Saran, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31-05-2017

