

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16005 of 2016

- =====
1. Dileep Kumar Mishra son of late Lakshmi Kant Mishra resident of village - Rikhauli, P.S. - Dumra, P.O. - Paktola, District - Sitamarhi.
 2. Rakesh Kumar son of Kishori Sah resident of Village + P.O. - Ranjitpur via Riga, P.S. + District - Sitamarhi.
 3. Sanjay Kumar Jha son of Rup Chandra Jha resident of village + P.O. - Parsauni, P.S. - Dumra, District - Sitamarhi.
 4. Ashish Kumar son of Subhash Kumar Thakur resident of village - Balha Manorath, P.O. Rasalpur, P.S. - Bajpatti, District - Sitamarhi.
 5. Mukesh Ray son of Satya Narayan Ray resident of village - Adhgain, P.O. - Indrwa, P.S. - Parihar, District - Sitamarhi.
 6. Saroj Kumar Pandey son of Bhogendra Panday resident of village - Kansara, P.O. - Bakhari, P.S. - Sursand, District - Sitamarhi.
 7. Prakash Kumar Jha son of Ravindra Nath Jha resident of village - Kansara, P.O. - Bakhari, P.S. - Sursand, District - Sitamarhi.
 8. Ratnesh Yadav son of Manejar Yadav resident of village - Adhgain, P.O. - Indrwa, P.S. - Parihar, District - Sitamarhi.
 9. Ashish Ranjan son of Shiv Shankar Prasad resident of mohalla - Kailashpuri Ward no. 10, P.O. + P.S. - Dumra, District - Sitamarhi.
 10. Ram Vinay Ray son of Bela Ray resident of village + P.O. Basaha, P.S. - Bajpatti, District - Sitamarhi.
 11. Vivekanand Jha son of Subodh Jha resident of village + P.O. - Parsauni, P.S. - Dumra, District - Sitamarhi.

.... Petitioners

Versus

1. The State of Bihar.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. Director, Bihar Administrative Reform Mission Society, General Administration Department, Government of Bihar, Patna.
4. Additional Director, Bihar Administrative Reform Mission Society, General Administration Department, Government of Bihar, Patna.
5. The Collector, Sitamarhi, District - Sitamarhi.
6. The Additional Collector-cum-Deputy Collector Establishment, Sitamarhi, District - Sitamarhi.
7. The Additional Collector, Right to Public Service, Sitamarhi, District - Sitamarhi.
8. Information Technology Manager, Sitamarhi, District Sitamarhi.
9. District Information Officer, Sitamarhi, District Sitamarhi.

.... Respondents

with

=====

Civil Writ Jurisdiction Case No. 16740 of 2016

=====

1. Rama Shankar Kumar son of Jagdish Singh, resident of village- Maibi, P.O.- Kishanganj, P.S.- Bathanaha, District- Sitamarhi.
2. Dhiraj Kumar Chaudhary, son of Ramashrey Chaudhary, resident of village + P.O.- Yadupatty Bazar, P.S.- Pupari, District- Sitamarhi.



3. Asutosh Kumar, son of Ram Sanehi Singh, resident of village Jalsi, P.O.- Harnahiya, P.S.- Sahiyara, District- Sitamarhi.
4. Priyanka Kumari daughter of Virendra Sah, resident of village- Yamuna Barahi, P.O.- Kamaladah, P.S.- Bathnaha, District- Sitamarhi.
5. Govind Kumar Jha son of Ram Heran Jha, resident of village Khairba Bhishba Bazar, P.S. Bela, Parihar, District- Sitamarhi.
6. Suresh Kumar Son of Mahendra Sah Resident of Village+P.O. Bagaha, P.S. Kanhauli, District Sitamarhi.
7. Kumari Ranju Rani@Ranju Kumari Daughter of Sri Surya Mangal Ray Resident of Village+P.O. Gauri, PS Nanpur District Sitamarhi.
8. Ramesh Kumar Son of late Bilas Mahto Resident of Village- Banarajhula, P.S. Sonbarsa, District Sitamarhi.
9. Anil Kumar Karan son of Sitaram Lal Karan Resident of Village- Biraulli, P.S. Bachharpur, P.O. Janakpur Road, P.S Pupari, District sitamarhi.
10. Santosh Kumar Sah Son of Kamal Sah Resident of Village- Kervakoith, P.O. Bahera, District Darbhanga.
11. Sumit Kumar Son of late Gopal mahto Resident of Village- Bhorha, P.O. Anhari, P.S Riga, District Sitamarhi.
12. Rubby Kumari Daughter of Ramnath Mahto Resident of Village- Bhoraha, P.O. Anhari, P.S. Riga District Sitamarhi.
13. Bhogendra Kumar Son of Nageshwar Sah Resident of Village- Kokna, P.S. Pramanandpur, PS Dumra, District Sitamarhi.
14. Juli Kumari Daughter of Shailendra Thakur Resident of Chopar Khurd, P.O. Batra, P.S. Nanpur, District Sitamarhi.
15. Md. Aftab Haidar Son of Maneer Haider Resident of Village+P.O. Gauri, PS Nanpur District Sitamarhi.

.... Petitioners

Versus

1. The State of Bihar
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. Director, Bihar Administrative Reform Mission Society, General Administration Department, Government of Bihar, Patna.
4. Additional Director, Bihar Administrative Reform Mission Society, General Administration Department, Government of Bihar, Patna.
5. The Collector, Sitamarhi, District Sitamarhi.
6. The Additional Collector-cum-Deputy Collector Establishment Sitamarhi, district Sitamarhi.
7. The Additional Collector, Right of Public Service, Sitamarhi, District Sitamarhi.
8. Information Technology Manager, Sitamarhi, District Sitamarhi.
9. District Information Officer, Sitamarhi, District Sitamarhi.

.... Respondents

Appearance :

(In CWJC No.16005 of 2016)

For the Petitioner/s : Mr. Rajeev Ranjan, Adv.
Mr. Devendra Kumar, Adv.
For the Respondent/s : MD.Nadeem Seraj, GP-5
Mr. Shailesh Kumar, AC to GP-5

(In CWJC No.16740 of 2016)

For the Petitioner/s : Mr. Rajeev Ranjan, Adv.
For the Respondent/s : MD. Irshad, AC to SC-1



=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 05-12-2017

Heard Mr. Rajeev Ranjan, learned counsel appearing for the petitioners and Md. Nadeem Seraj, learned GP-5, for the State.

The petitioners herein are on the panel of Executive Assistant prepared for the district of Sitamarhi on 14.10.2012 and are aggrieved by the fresh selection process initiated by the District Administration for preparation of new panel without exhausting the old panel.

Mr. Rajeev Ranjan, learned counsel for the petitioners, has relied upon the circular of the General Administration Department of the Govt. of Bihar dated 20.5.2011, a copy of which is placed at Annexure 3, to submit that the advisory at paragraph 4 very clearly stipulates that a fresh panel would be prepared only on exhaustion of the panel of the Executive Assistant already prepared by the department. He further in reference to the judgment of this Court reported in 2017(4) PLJR 536 (**Dharmendra Kumar & ors. v. the State of Bihar & ors.**) submits that it is taking note of this very stipulation present at paragraph 4 that the petitioner of the said case was directed for consideration of his claim. He next refers to the statement made in the supplementary affidavit filed in the proceeding on 29.11.2017 to submit that 20 candidates were appointed from the



panel on 18.10.2013 vide Annexure 8, 17 candidates were appointed vide letter dated 20.11.2014 at Annexure 9 and 9 candidates were appointed on 7.3.2015 vide Annexure 10 but the case of the petitioners has been ignored although certain juniors from the panel were also appointed. According to Mr. Ranjan, the action of the respondents in making appointments from the panel at their choices should be backed with reasons which is missing in this case. While accepting the advisory issued by the Principal Secretary, General Administration Department, dated 5.5.2016 at Annexure 6, he submits that it would have a prospective effect to the panel prepared thereafter.

Although the argument of Mr. Ranjan has been contested by Md. Seraj, learned State Counsel, to submit that the earlier panel had a validity of one year which has been expanded to three years vide advisory dated 5.5.2016 of the Principal Secretary, a copy of which is annexed at Annexure 6 to the writ petition. He submits that the fresh panel which is being prepared in the light of Advertisement No. 13689 (Ni.Ni.) 14-15 would now have a validity of three years.

I have heard learned counsel for the parties and have perused the records.

Even though the claim raised by the petitioners for consideration of their case for appointment on their empanelment would bear consideration in view of the stipulations present in the



circular dated 20.5.2011 which has been noted by this Court in the judgment rendered in the case of **Dharmendra Kumar** (supra) but the said circular has now merged with the circular dated 5.5.2016 of the General Administration Department which limits the validity of a panel to three years although in the previous circular dated 20.5.2011 the panel had a continued validity until its exhaustion. The complaint of the petitioner in reference to the supplementary affidavit is that although large number of appointments was made from the panel including some candidates, who were junior to these petitioners in the panel, but their cases were ignored and a fresh panel is yet to be prepared in the light of the advertisement under reference. Although learned counsel for the petitioners has pleaded that the representations were filed against these appointments but there is nothing on record to support such submission.

Having heard learned counsel for the parties and in view of the advisory issued by the General Administration Department dated 5.5.2016 which limits the validity period of a panel to three years and considering that a period of more than four years has lapsed since last panel prepared, I am not persuaded to grant indulgence to the prayer made herein and these two writ petitions are disposed of with an observation that since these petitioners were already on the panel of the Executive Assistant prepared for the district, their cases may be



considered for empanelment by granting them age relaxation as and when fresh panel is prepared provided the petitioners do apply for the same.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2017
Transmission Date	NA

