

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.539 of 2016

- =====
1. Rajesh Kumar Singh Son of Basdeo Singh Resident of Village- Balghat Balua, Po - Belghate, P.S -Arrah, Mufassil, District Bhojpur.
 2. Bal Bhagwan Thakur son of Dudheshwar Thakur Resident of Village and Post - Berath, P.s Chauri, District Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Public and Administration Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Patna Division Patna.
4. The District Magistrate, Bhojpur at Ara.
5. The District Development Commissioner, Bhojpur at Arrah.
6. The Additional Collector, Bhojpur at Ara.
7. The Establishment Deputy Collector, Bhojpur at Arrah.
8. The Nazarat Deputy Collector Bhojpur at Arrah.
9. Kedarnath son of late Prichhan Ram Resident of Village Laxamanpur Post Dulatpur, P.s Arrah Mufassil, District Bhojpur.
10. Mohammad Akhtar Ansari Son of Halim Ansari Resident of Suraudha Colony, Post Koilwar, P.s Koilwar, District Bhojpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Subhas Singh, Adv.
For the Respondent/s : Mr. Indradeo Prasad, S.C.27

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-09-2017

Heard Mr. Ram Subhas Singh, learned counsel for the petitioners and Mr. Indradeo Prasad, S.C.27 for the State.

The two petitioners are aggrieved by the order of the Collector, Bhojpur bearing Memo No. 741 dated 21.8.2014 whereby it proceeds to reject the claim of the petitioners for being included in the panel at the rightful place inter alia on grounds that the petitioners failed to produce the documents to support their continuance in service period.



The short argument that has been advanced by Mr. Ram Subhas Singh learned counsel for the petitioners is that even though the petitioner No.1 Rajesh Kumar Singh for some reason could not appear on the relevant date but the petitioner No.2 Bal Bhagawan Thakur did appear and produced relevant documents in support of his working, however, the same was not considered. Learned counsel refers to the order of this Court passed in C.W.J.C.No.20785 of 2011, a copy of which is present at Annexure-5 to the present writ petition to submit that the bench while disposing of the writ petition had directed the Collector, Bhojpur to consider the report submitted by the Deputy Collector dated 13.5.2013. Mr. Singh has referred to the report dated 13.5.2013 of the Deputy Collector at Annexure-4 to the writ petition to submit that the name of the petitioner no.1 Rajesh Kumar Singh appears at serial No.14 and supports his working for at least 102 days. He next refers to a document placed on record vide Annexure-10 to the reply to the counter affidavit to submit that the Nazarat Deputy Collector has forwarded the working of the petitioner No.2 Bal Bhagwan Thakur vide his letter dated 2.5.2015 and which confirms that the petitioner no.2 has worked for 152 days. He submits that in the circumstances, the placement of the petitioner No.1 at Serial No.147 and that of the petitioner No.2 at Serial No. 234 of the Panel at Annexure-6 even below such of the persons who have worked for



one single day is contrary to the records. It is the submission of Mr. Singh that even if there was any lapse on the part of the petitioners to produce the relevant documents but these were much in custody of the respondents themselves and has also been taken note of by the coordinate bench while disposing of the previous writ petition.

The arguments have been contested by Mr. Prasad learned State counsel in reference to the order of the coordinate bench passed in C.W.J.C.No.19716 of 2014 to submit that in a similar situation, the Bench has refused to grant indulgence taking note of the lapse of the petitioners to produce supporting documents.

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

Mr. Prasad learned State counsel has rightly relied upon a coordinate bench judgment, copy of which is placed at Annexure-D to the counter affidavit to oppose the claim of the petitioners but in my opinion, in view of the order passed in the case of the two petitioners herein in the previous round of litigation arising from C.W.J.C.No.20785 of 2011, the order so relied upon by Mr. Prasad would not be applicable in the case of the petitioners rather their case would be covered by the previous direction passed in C.W.J.C.No.20785 of 2011 under which the Collector was directed to consider the claim of the petitioners in the light of the report of the



Deputy Collector dated 13.5.2013 and which has conformingly not been done. The report of the Deputy Collector dated 13.5.2013 which is present at Annexure-A confirms the functioning of the petitioner No.1 for a period of 102 days and the information so supplied to the petitioner No.2 by the Nazarat Deputy Collector through his letter dated 2.5.2015 at Annexure-10 confirms his functioning in the Collectorate for 152 days.

In such circumstances discussed, I am of the opinion that the case of the petitioners requires a reconsideration by the Collector, Bhojpur. The matter is thus remitted to him for considering the claim of the petitioners for their rightful place in the panel in the light of the facts noted hereinabove afresh. The Collector, Bhojpur shall consider and dispose of the claim of the petitioners within a period of 6 weeks from the date of receipt/ production of a copy of the order in accordance with law. The petitioners would be at liberty to furnish the documents before the Collector, Bhojpur to facilitate his adjudication.

The writ petition is disposed of accordingly. The order of the Collector, Bhojpur impugned herein stands modified to such extent.

(Jyoti Saran, J)

Bibhash

AFR/NAFR	
CAV DATE	NA
Uploading Date	16.10.2017
Transmission Date	NA

