

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.726 of 2017**

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1. Raju Paswan, Son of Ram Pati Paswan, Resident of village - Chandhariya, P.O. Kordihara, P.S. Paras Bigha, District - Jehanabad

.... .... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Home Deptt.
2. The District Magistrate, Jehanabad
3. The District Officer, Jehanabad
4. The Superintendent of Police, Jehanabad
5. The Sub Divisional officer, Jehanabad, District Jehanabad

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dhananjay Kumar Tiwary, Adv.  
Mr. Baban Kumar, Adv.

For the Respondent/s : Mr. Suman Kumar Jha, A.C. to AAG3

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 11-09-2017**

The petitioner is aggrieved by the order dated 13.7.2016 of the District Magistrate, Jehanabad whereby in reference to the Circular of the Home (Police) Department dated 20.12.1995 and 6.11.1991, the claim of the petitioner for appointment in the post of Chaukidar in place of his father, has been rejected.

It is not in dispute that the father of the petitioner was appointed as Chaukidar at Paras Bigha Police Station in the District of Jehanabad and prior to his retirement i.e on 31.12.2002 he filed an application for appointment of his son by way of nomination. The process was initiated but the claim has been rejected after 14 years by the impugned order dated 13.7.2016 relying upon circulars which perhaps have lost its force in view of the amendment incorporated in the Bihar Chaukidar Cadre Rules, 2006 vide Bihar Chaukidar Cadre



Amendment Rules, 2014 whereby a proviso has been added under Rule 5(7) to allow a retiring Chaukidar to nominate one of his dependents as his successor and which application should be filed at least one month prior to his superannuation. The amendment incorporated under the rules is statutory in character framed under Article 309 of the Constitution of India. It is unfortunate that the amendment has evaded the notice of the District Magistrate, Jehanabad.

In the circumstances where the order of the District Magistrate, Jahanabad is resting on such circulars which have given way to the amendment in the Bihar Chaukidar Cadre Rules, the matter requires a reconsideration and accordingly the order bearing No. 585 dated 13.7.2016 of the District Magistrate, Jehanabad is quashed and set aside: The matter is remitted to him for consideration of the claim of the petitioner afresh and for its disposal in accordance with law preferably within 3 months from the date of receipt/production of a copy of this order.

The writ petition is allowed.

Bibhash/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 16.09.2017 |
| Transmission Date | NA         |

**(Jyoti Saran, J)**

