

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10679 of 2012

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1. Prem Nath Paswan S/O Sri Gaya Paswan Resident Of Village Goharsahi, Police-Station- Sadar, District- Muzaffarpur
 2. Jitendra Kumar Chaudhary S/O Of Sri Sone Lal Chaudhary Resident Of Village Mornisaf, Police Station- Maniari, District- Muzaffarpur
 3. Anil Kumar Chaudhary S/O Mukhilal Chaudhary Resident Of Village And P.O.- Karma, Police Station- Kurhani, District- Muzaffarpur
 4. Sanjay Kumar Paswan S/O Late Chulhai Paswan R/O Village- Sakra Mansurpur, Police-Station- Sakra, District- Muzaffarpur
 5. Sunil Kumar Rajak Son Of Late Gorakh Rajak R/O Village- Jogiamath Serajganj, Police Station- Nagar District- Muzaffarpur
 6. Bishundeyal Paswan S/O Sri Basudeo Paswan R/O Village- Bochaha, P.S.- Bochaha, Distt.- Muzaffarpur
 7. Deepak Kumar Rajak S/O Sri Sitaram Rajak R/O Village- Purani Bazar (Siyanarain Mandir) Police- Station- Mitharpura, District- Muzaffarpur
 8. Kapildeo Paswan S/O Yadunandan Paswan R/O Village- Gobarsahi, P.S.- Sadar, District- Muzaffarpur
 9. Sanjit Kumar Chaudhary Son Of Krishna Kr. Chaudhary R/O Village And P.O.- Susta Madhopur, P.S.- Sadar District- Muzaffarpur
 10. Bishwanath Eam S/O Ramdeo Ram R/O Village- Patiasa Jalal, P.S.- Ahiyapur, District- Muzaffarpur
 11. Meghu Rajak S/O Sri Yogendra Rajak R/O Village- Nayagaon, P.S.- Mizahri, District- Muzaffarpur
 12. Daulath Kumar S/O Late Doman Ram R/O Village- Selahpur, P.S.- Aarju, District- Muzaffarpur
 13. Kameshwar Ram S/O Bhikhu Ram R/O Village- Srirampur, P.S.- Kathaina, Distt.- Muzaffarpur
 14. Rajesh Khanna S/O Hira Rajak R/O Village- Antraulia, P.S.- Saraia, District- Muzaffarpur
 15. Mahendra Ram S/O Jageshwar Ram R/O Village And Post- Dumari, P.S.- Musahari, District- Muzaffarpur
 16. Sushil Paswan S/O Yogendra Chaudhary R/O Village- Morisaf, P.S.- Maniari, District- Muzaffarpur
 17. Jaialal Chaudhary S/O Yogendra Chaudhary R/O Village- Morisaf, P.S.- Maniari, District- Muzaffarpur
 18. Satrugan Paswan S/O Sri Ramswaroop Paswan R/O Village & Post- Kolhua, Distt.- Muzaffarpur
 19. Rajkishore Ram S/O Ram Sundar Ram R/O Village- Khalilpur, P.S.- Karja, District- Muzaffarpur



- 20.Umesh Kumar Rajak S/O Ganaur Baitha R/O Village- Sundar Sarai, P.S.- Motipur, Distt.- Muzaffarpur
- 21.Dilip Kumar Son Of Ganaur Baitha R/O Village- Sundar Sarai, P.S.- Motipur, Distt.- Muzaffarpur
- 22.Mahendra Ram No. 2 S/O Late Bisheshwar Ram R/O Village & Post- Pakohi, P.S.- Karja, District- Muzaffarpur
- 23.Radhe Paswan S/O Gena Paswan R/O Village- Sundwara, P.S.- Kurhani, District- Muzaffarpur
- 24.Kishun Paswan S/O Shyam Nr. Paswan R/O Village + P.O.- Karma, P.S.- Kurhani, District- Muzaffarpur
- 25.Sanjay Paswan S/O Baleshwar Paswan R/O Village & P.O.- Karma, P.S.- Kurhani, Distt.- Muzaffarpur

.... Petitioners

Versus

1. 1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Commissioner & Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Old Secretariat, Patna
3. The Board of Revenue through the Secretary Board of Revenue, Government of Bihar, Patna
4. The Commissioner, Tirhut Division, Muzaffarpur
5. The District Magistrate, Muzaffarpur
6. The Director, Science And Technology Department, Government of Bihar, New Secretariat, Patna
7. The Dy. Collector, In-Charge, Nazarat, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Kumar Madhurendu

For the Respondent/s : Mr. Manoj Kr. Ambasta GP14

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 16-01-2018

Heard learned counsel for the petitioners and
learned counsel representing the State.

2. The petitioners, in the present case, are



seeking following reliefs:

I. For issuance of a writ in the nature of certiorari to quash the order issued vide memo no. 44 Mukhiya/Nazarat dt. 17.08.2011 issued by the District Magistrate, Muzaffarpur, whereby and whereunder the D.M. Muzaffarpur, wrongly submitted that the panel of 1994 was cancelled in his show cause filed in M.J.C. No. 5108 of 2011 (Annexure-22).

II. For issuance of writ in the nature of mandamus for commanding the respondent authorities to prepare/review the panel of 2011 by including the name of the petitioners who empanelled in the exclusively prepared for the members of schedule caste in the year of 1994 in accordance with the guidelines issued by the State Govt. vide circular No. 16441 dt. 3.12.1980 revised from time to time and direction of this Hon'ble Court in CWJC No. 12993 of 1996 and others in this subject and further direction to the respondent authorities to appoint the petitioners on the class IV posts under Muzaffarpur District and cancel the appointments of those candidates whose names are wrongly empanelled in the panel of 2011, in the light of the judgment of the Hon'ble Supreme Court in the case of the State of Karnataka and others Vs. Uma Devi and others



reported in 2006 (2) PLJR (SC) 363.

III. For all consequential reliefs for which the petitioners are found entitled to in the course of hearing of this writ petition an admissible in the light of factual profile of the case.”

3. The petitioners, who claimed that they are still working on daily wages as Class IV employees at Muzaffarpur Collectorate, have filed this writ application being aggrieved by the decision of the empanelment/selection committee taken on 17.08.2011 pursuant to the decision of this Court in CWJC No. 11168/2009 (Ramesh Kumar & others Vs. The State of Bihar and another) and the order passed in MJC No. 3407/2010. The said Empanelment Committee/Selection Committee had taken the decision rejecting the cases of these petitioners to empanel them in the panel/list of the year 2011. Reasons for such rejection have been shown in the decision of the Empanelment Committee, as contained in Annexure-22 series to the present writ application.

4. Learned counsel for the petitioners submits that pursuant to the order passed by this Court, the Empanelment Committee was obliged to consider the cases



of these petitioners for empanelment but Empanelment Committee wrongly rejected the case of these petitioners and refused to place them in the panel of the year 2011.

5. Learned counsel submits by referring to Annexure-29 attached with the rejoinder of the petitioners that while the case of the petitioners were rejected on the ground that they were not in the panel prepared in the year 2001 and in the panel prepared in the year 2006, some of the persons whose name were also not there in the panel of 2001 and 2006 have been considered and were included in the fresh panel and pursuant thereto they have already been appointed.

6. On the other hand, learned counsel for the State submits that the decision of the Empanelment Committee, as contained in Memo No. 44 dated 17.08.2011, contained in Annexure 22 series, is a well reasoned order. The Committee has taken note of the decision of the District Level Empanelment Committee taken in the meeting held on 10.11.2000. In the said meeting, the Empanelment Committee found that in the year 1994 a list of 1066 candidates of scheduled caste was prepared but it was found



that they were all from the same and one class which was also found to be ten times more than the actual vacancy. In the said list, there was no candidate from the scheduled tribe, backward class and extremely backward class as also from the general category, therefore, in view of the directions received from the General and Administrative Reforms Department, Government of Bihar, the said panel was not a valid panel, it was not prepared in accordance with law and was in fact against the settled law on reservations. It was, therefore, decided that only those candidates who were working and who were fulfilling the other conditions of appointment were to be given preference. In the light of the decision of the Empanelment Committee taken in its meeting held on 10.11.2000, candidates from all the categories were given place and appointments were also made in the district on class IV posts. The decision of the Panel Committee was neither challenged before the Hon'ble High Court or before any other competent authority and no person aggrieved by the said decision claimed their empanelment.

7. It is further pointed out that in the writ application there were 33 applicants but they were those who



had not submitted their applications for empanelment in the year 2001 and in the year 2006, therefore, they were not placed in the panel and had lost their continuance and seniority in the panel of those years. The Empanelment Committee was of the view that if those 33 candidates are included in the panel of the year 2011, then, a large number of candidates who had found place among the total 1066 candidates in the panel prepared in the year 1994 will be required to be included, whereas presently there is no proportionate vacancy in the scheduled caste category.

8. The Empanelment Committee also took note of the fact that out of 33 candidates who had applied and who were the writ petitioners in CWJC No. 11168/2009 (Ramesh Kumar and others Vs. State of Bihar and another), 12 candidates had not even applied for their empanelment in the current year against the advertisement issued for this purpose. The Committee was of the view that it would not be just and proper to include them in the panel in view of the letter no. 16441 dated 03.12.1980 issued by the Personnel and Administrative Reforms Department, Government of Bihar. The Committee was further of the view that the stand



of the government was not properly placed before the writ court.

9. While assailing the impugned order Annexure-22 series, learned counsel for the petitioners submitted that these petitioners had applied for their empanelment in the year 2001 and the year 2006 as well. However, on query raised by this Court, as to whether this fact has been specifically pleaded in the writ application, learned counsel for the petitioners is unable to show from the averments in the writ application that these petitioners had made application for their empanelment in the year 2001 and 2006. Thus, oral submission of learned counsel for the petitioners cannot be accepted by this Court in absence of a specific pleading and evidence to that effect that too when the Empanelment Committee has categorically found and held that these petitioners had not applied for their empanelment in the year 2001 and 2006, in fact, this Court finds that there is no averment in the writ application assailing the findings of the Empanelment Committee as contained in Annexure-22 of the writ application. The facts which transpired from the panel prepared in the year 1994 wherein 1066 candidates of



one particular class were empanelled, the further fact that these petitioners had not applied for their empanelment in the year 2001 and 2006, and therefore, they lost their continuance, seniority and place in the subsequent panel and yet another fact that out of 33, the 12 candidates were those who had not even submitted their application for empanelment in the year 2011 pursuant to the advertisement are not at all controverted in the pleading of the petitioners.

10. In view of the categorical findings and the reasons provided in Annexure-22 to the writ application, this Court does not find any illegality or infirmity with the impugned order.

11. This Writ Application has no merit. It is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.01.2018
Transmission Date	NA

