

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16107 of 2004

1. Umeshwar Singh Son of Shri Raghuvir Singh Resident of Village-Dhanushi, P.S. Rahika, District- Madhubani.
2. Janardan Sharma Son of Shri Harinath Sharma Resident of Village- Gargauria, P.S. Pandaul, District- Madhubani.
3. Kaladhar Jha Son of late Raghunandan Jha Resident of Village-Malangia, P.S. Rahika, District- Madhubani.
4. Dharmdeo Yadav Son of Shri Yugeshwar Yadav Resident of Bardiban, P.S. Pandaul, District- Madhubani.
5. Rajeshwar Rai Son of Shri Hira Lal C/o Janardan Prasad, Parishadan Madhubani, P.S. Madhubani, District- Madhubani.
6. Jitendra Kumar Singh Son of Shri Bindeshwar Singh Resident of Villge- Chotaipatti, P.S. Sadar Darbhanga, District- Darbhanga at Present residing at Village- Dhanuki, P.S. Rahika, District- Madhubani.
7. Md. Unus Son of late Md. Musa Resident of Village- Bhauara, P.S. Madhubani, District- Madhubani.
8. Govind Mishra Son of Shri Rambhajan Mishra Resident of Village- Bhaiyapatti, P.S. Basopatti, District- Madhubani.
9. Parmeshwar Mandal Son of Shri Kusheshwar Mandal Resident of Village-Dhanushi, P.S. Rahika, District- Madhubani.
10. Narmada Devi Wife of late Ramnaresh Singh Resident of Village- Kankana, P.S. Pandaul, District- Madhubani.
11. Sanjiv Kumar Singh Son of Sri Harendra Prasad Singh Resident of Village- Rampur Kumhar Kol, Desari Distt. Vaishali , at Present C/o Shri Dayanand Singh, Resident of Bhauara, P.S. Madhubani, District- Madhubani.
12. Ghanshyam Thakur Son of late Tripit Thakur Resident of Village-Datwar, P.S. Khajauli, District- Madhubani.
13. Ashok Chaudhary Son of Shri Parikshan Kapar Resident of Jhanjharpur, P.S. Jhanjharpur, District- Madhubani.
14. Raj Kumar Son of late Rajendra Prasad Mandal at Present residing in Village - Khajauli Sarabe, C/o Ram Lagan Singh, P.S. Khajauli, District- Madhubani, Permanent resident of Village Dharampur, P.S. Shambhuganj, P.O. Chatmadih, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Patna, Bihar.
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The District Magistrate-cum-Collector, Madhubani.
4. The Deputy Collector(Establishment) Madhubani.
5. Shree Prabhakar Thakur Son of Shri Narayan Thakur Resident of Village- Bhaura, Ward No. 21, District- Madhubani.
6. Ram Ashish Das Son of late Vidyanand Lal Das Resident of Bhaura, District- Madhubani.
7. Smt. Chandrakala Devi Wife of Raj Kumar Singh Resident of Village- Sukki, P.O. Khajauli, District- Madhubani.
8. Phool Chand Oraon son of Angnu Oraon Resident of Block Colony, Jainagar, District- Madhubani.



9. Shivrindan Ram, Son of Shri Baldeo Ram, resident of Sub-Divisional Office at Jhanjharpur, District – Madhubani
10. Nanda Paswan, Son of Swaroop Paswan, Resident of Bhawanipur, Post – Bhatsimar, Via – Rajnagar, District – Madhubani
11. Pulinder Safi Son of Susai Safi Resident of Village and Post- Mahrail, Andhrathadi, District Madhubani.
12. Madan Paswan Son of Ram Chander Paswan Resident of Village- Balbhadrapur, P.O. Jhanjhapur, RAS, District- Madhubani.
13. Umesh Paswan Son of Mahanth Paswan Resident of Village- Fatepur, P.O. Basam, District- Madhubani.
14. Mahendra Paswan Son of Surat Paswan Resident of Village- Dhanushi, P.O. Jagatpur, District- Madhubani.
15. Shivkumar Paswan Son of Tanuk Paswan Resident of Village and P.O.- Kachhvi, Via- Tamuria, District- Madhubani.
16. Madan Safi Son of Sahdeo Safi Resident of Village and P.O. Kotwali Chowk, Bhaura, District- Madhubani.
17. Krishna Dev Ram Son of Uttam Mochi Resident of Village and P.O. - Bahuarwa, Via- Manigachhi, District-Darbhanga.
18. Baney Lal Ram Son of Baldeo Ram Resident of Village- Sakularahi, P.O. Lahna Road, District- Madhubani.
19. Kusheshwar Safi Son of Kari Safi Resident of Village - Laxmipur, P.O. Datwar, District- Madhubani.
20. Sonfi Paswan Son of Rameshwar Paswan Resident of Village and P.O. - Deep Dihtol, District- Madhubani.
21. Shobhit Paswan Son of Late Saini Paswan Resident of Village- Thanga, Padkari Tol, District- Madhubani.
22. Ramendra Mishra Son of late Tarakant Mishra Resident of Village- Ramanipatti, P.S. Babubarhi, District- Madhubani.
23. Lakhan Lal Thakur Son of Bhola Thakur Resident of Village and P.O. Barsam, Andhrathadi, District- Madhubani.
24. Shankat Ali Son of late Ahmed Ali Resident of Kotwali Chowk, District- Madhubani.
25. Navin Shankar Prabhkar Son of Umesh Chandra Das Resident of Village- Jhanjharpur, District- Madhubani.
26. Kapil Deo Singh Son of Now known Resident of Village and P.O. Daiyakhariwaiyar, District- Madhubani.
27. Braj Mohan Singh Son of not known Resident of Village- Daiya Kharawaiyar, District- Madhubani.
28. Bishwanath Jha Son of Mahadeo Jha Resident of Village and P.O.- Bathani, District- Madhubani.
29. Anup Kumar Sinha Son of late Shiv Kumar Sahay Hospital Road, District- Madhubani.
30. Gyani Das Son of Fuleshwar Das Resident of Village- Maniyarwa, Khajauli, District- Madhubani.
31. Tej Narayan Sharma Son of Digambar Sharma resident of Village and P.O.- Jhanjharpur, Bazar, District- Madhubani.
32. Ganga Ram Son of not known Resident of Village- Basuki Bihari, District- Madhubani.
33. Ram Chander Paswan Son of not known Resident of Village- dariya, District- Madhubani.
34. Jiwach Paswan Son of Mishri Paswan Resident of Village- Khajauli, District- Madhubani.



35. Ram Gulam Paswan Son of not known Resident of Village- Dhenga, Via- Kaluahi, District- Madhubani.
36. Hira Lal Safi Son of Kari Safi Resident of Village- Rahikpur, Misraulia, District- Madhubani.
37. Dilip Kumar Singh Son of Ram Raghubir Singh Resident of Village- Dhanushi, District- Madhubani.
38. Indra Narayan Thakur Son of Tej Narayan Thakur Resident of Jagbal Kacchvi, District- Madhubani.
39. Shambhu Thakur Son of Bhagwat Thakur Resident of Village and P.O. Baruar, Bhairavsthan, District- Madhubani.
40. Raju Ram Bari Son of shibu Ram Bari Resident of Village- Bhauara, District- Madhubani.
41. Kishundeo Safi Son of Baijhal Safi Resident of Village- Barh Samaila, Tola Garaiya, Lalganj, District- Darbhanga.
42. Laxmi Paswan Son of Basudeo Paswan Resident of Village- Seema, District- Madhubani.
43. Ram Bilas Paswan Son of Dodhai Paswan Resident of Village- Kakraul, Rahika, District- Madhubani.
44. Parmeshwar Ram Son of late Fanait Ram Resident of Village- Ekdara, District- Madhubani.
45. Parshuram Paswan Son of Jhamchi Paswan Resident of Village- Ganguli, District- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli Advocate Mr. Ravindra Kumar Singh Advocate
For the State	:	Mr. Niraj Kumar AC to GA-10
For the Respondent No. 5:		Mr. Dhruba Mukherjee Sr. Advocate Mr. Ganesh Singh Advocate Mr. Md. Nazir Ansari Advocate
For the Respondent Nos. 6-8 10-37 and 39-47		Mr. Shanti Pratap Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 03-12-2018

A counter affidavit has been filed during the course of
the hearing.

Let it be taken on record.



The petitioners have prayed for quashing of the letters of appointment (Letter No. 79, 80 and 81) issued under the office of the Collector-cum-District Magistrate, Madhubani dated 30.10.2004, whereby 44 persons were appointed on Class-IV posts on the basis of panel prepared in the year 1994 and further for a direction to the respondents to appoint petitioners for which they are/were eligible and were working on daily wage, muster roll basis as Peons, Generator Operators etc. in the Madhubani Collectorate between the period 1987-1994.

Several developments have taken place in this case in the past, which is only being briefly referred to.

The petitioners had earlier preferred writ petition bearing C.W.J.C. No. 18 of 1998 challenging their removal as daily-wagers. The aforesaid writ petition was disposed off on 14.01.1998, directing the respondents to take a final decision about the appointment of the petitioners on Class-IV posts on regular basis within a period of four months of passing of the order/communication of the order and on the petitioners



making suitable representation in that regard before the District Magistrate, Madhubani.

Nothing happened thereafter, forcing the petitioners to prefer several rounds of contempt petitions, bearing M.J.C. Nos. 2130 of 1998; 900 of 2001; and 148 of 2004. In those contempt petitions, the District Magistrate, Madhubani stated before this Court that after seeking clarification from the superior authorities, the process of appointment of the petitioners on Class-IV posts has been started and the same is expected to be completed by the end of the year 2004.

A direction was given to the respondent-Collector, Madhubani not to raise any objection with respect to the over-age of some of the petitioners.

In July, 2004, an advertisement was issued at the end of the Collector, Madhubani vide Advertisement No. 1 of 2004, inviting applications for appointment on Class-IV posts in the Collectorate Cadre of Madhubani. The petitioners also, on being specially intimated by the respondents, applied for the said post. Pursuant to the aforesaid advertisement, 44 Class-IV employees were appointed on the basis of panel prepared in



the year 1994. Out of those 44 appointees, 34 were persons belonging to the reserved category. This led the petitioners to file another contempt petition before this Court vide M.J.C. No. 2456 of 2004. Simultaneously, a writ petition also was filed vide C.W.J.C. No. 16107 of 2004, whereby a challenge was put up to the selection process made by the respondents.

While hearing the contempt petition, namely, M.J.C. No. 2456 of 2004, as also C.W.J.C. No. 16107 of 2004, referred-to-above, an issue was raised that 19 posts out of total of 44 vacancies were wrongly treated to be reserved for Scheduled Tribes in opposition to the circular issued by the Personnel and Administrative Reforms Department in the light of Bihar Act 17 of 2002.

One Nityanand Mishra had filed a writ petition bearing C.W.J.C. No. 12121 of 2005, in which the roster which was followed in the appointment was challenged and it was held that the ground on which the roster of one category was forwarded to the another category was not intelligible enough to be justified in the eyes of law. Finding that more than 50% of the posts were therefore kept reserved, which was not



permissible, the appointees to the posts were noticed by the Court.

It would not be necessary to refer to the result as well as disposal of the writ petition whereby certain arrangements were made with respect to the roster, which was required to be followed. What is relevant here to state is that when the petitioners could not be appointed against Class-IV posts, they again preferred another contempt petition bearing M.J.C. No. 2652 of 2008.

In the aforesaid MJC petition, twice affidavits were filed by two District Magistrates and since there was no unanimity in the stand of the two District Magistrates filing their show-cause reply, a Bench of this Court vide order dated 06.03.2013 directed the Chief Secretary, Government of Bihar to examine the matter and file an affidavit in that regard.

On careful analysis of the entire set of background facts, the Chief Secretary, Government of Bihar filed an affidavit in M.J.C. No. 600 of 2008, admitting that the vacancies had not been determined properly in accordance with law and that roster clearance was also faulty.



A review petition also came to be filed by one of the petitioners, namely, Sanjeet Kumar Singh, vide Civil Review No. 463 of 2013 for review of the order dated 06.11.2007 passed in C.W.J.C. No. 16107 of 2004.

The Court hearing the review petition was of the view that since the vacancy was an old one, the writ petition be heard afresh.

Lastly, on 13.04.2018, finding that the entire selection process of 2004 on the basis of which some of the respondents, who were appointed on Class-IV posts were faulty, it was directed and observed that the State would be under an obligation to look into the entire aspect of the matter vis-a-vis the claim of the petitioners and settle the issue without going into the individual merits of the cases of each of the petitioners.

In the supplementary counter affidavit filed in the present petition, it has been undertaken by the respondent-authorities that the proposal for appointment had been received from Commissioner, Darbhanga and that the order



dated 13.04.2018, referred to above, passed by a Bench of this Court shall be complied with as expeditiously as possible.

It is also relevant to state that the Principal Secretary, General Administrative Department, Government of Bihar in his counter affidavit had put the blame on the District Magistrate, Madhubani who had not taken a decision for all these years in the light of advice of the Law Department for regularization / appointment of the petitioners.

A reference may also be made to the supplementary counter affidavit dated 10.09.2018 on behalf of the District Magistrate, Madhubani, who has undertaken that the process of regularization / appointment would begin from 12.09.2018.

The affidavit filed on behalf of the District Magistrate clearly indicates that he had obtained guidelines to comply with the orders of the Court. In the light of the opinion received from the Law Department, the process of regularization / appointment has already been initiated and the process would be completed within a short time.

Learned counsel appearing on behalf of the State submits that the process is afoot and there is every likelihood



of the same culminating in an order appointing the petitioners on Class-IV posts.

This Court, therefore, hopes and trusts that the undertaking given by the District Magistrate in the background of the advise of the Law Department and further clearance from the government, the petitioners shall not be left high and dry and the process shall be concluded positively within a period of three months from the date of production / communication of a copy of this order to the concerned respondents.

With the aforesaid observation, the writ petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	06.12.2018
Transmission Date	

