

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6495 of 2017

1. Niraj Kumar Gupta S/o Suresh Prasad Gupta Vill- Rauza , P.O. Chapra, P.S. Chapra, town , District- Saran, State- Bihar, Pin Code- 841301.
2. Deepak Kumar Sharma S/o Harendra Sharma Vill- Lohari, PO- Gurukul Mehiya, P.S. Muffasil Chapra, Distt- Saran, Pin Code- 841301
3. Dheeraj Kumar Shriwastwa S/o Surya Prakash Shriwastwa Vill+P.O. - Pachbhinda, P.S. Taraiya, Distt- Saran, Pin Code- 841424.
4. Manoj Kumar Pandit S/o Ram Surat Pandit Vill +P.O. - Tarwanb, PS- Kopa, Distt- Saran, Pin Code- 841205
5. Shashi Kant Kumar Singh S/o Sarv Nath Singh Vill- Belwaniya, P.O. Ferusa, P.S. Garkha, District- Saran, Pin code- 841415.
6. Vikash Kumar S/o Ramjee Pandit Moh- Shyam Chak, P.O.- Chapra, P.S. Bhagwan Bazar, Distt- Saranj, Pin Code- 841301
7. Soni Kumari D/o Rajendra Singh Vill +P.O. - Atta, P.S. Marhowrah, Distt- Saran, Pin Code- 841419.
8. Umesh Kumar S/o Dinesh Prasad Vill- Atta, Post-Atta, P.S. Marhowrah, Distt- Saran, Pin Code- 8414193
9. Rajesh Kumar S/ Ambika Prasad Vill- Atta, Post- Atta, P.S. Marhowrah, Distt- Saran, Pin code- 841419
10. Kedarnath Sharma S/o late Ramjana Sharma Mohalla- Mauna Ahir Toli, P.O. Chapra, P.S. Chapra town, Distt- Saran, Pin Code- 841301
11. Satish Kumar Sinha S/o late Umesh Chandra Srivastav At- Dahiyawan, P.O. Chapra, P.S. Town Chapra, Distt- Saran, State- Bihar, Pin Code- 841301
12. Rakesh Kumar Vernwal S/o late Mohan Prasad Vernwal At- Dahiyawan, P.O. Chapra, P.S. Town Chapra, Distt- Saran, State- Bihar, Pin Code- 841301
13. Ranjeet Maharaj S/o Lalan Maharaj Vill- Ekma, Post- Ekma, Distt- Saran, Pin Code- 841208, State- Bihar.
14. Saurav Kumar S/o Sanjiv Kumar Srivastava At+P.O- Ferusa, P.S. Garkha, Distt- Saran(Bihar), Pin Code- 841415.
15. Rahul Kumar S/o Awadhesh Prasad Gupta At- Dahiyawan Mahmood Chowk Dharam Dev Sahay Mandir, P.O. Chapra, P.S.- Twon Thana, Saran(Bihar) , Pin Code- 841301.
16. Pankaj Kumar Gupta S/o Vijay Shanker Prasad At- Hansrajpur Banarsi Sah Ke Tola, P.O. Ekma, P.S. Ekma, Distt- Saran (Bihar), Pin Code- 841208
17. Munna Jaiswal s/o Hari Prasad Vill- Mohan Bagan (Khurd), P.O. Marhowrah, Distt- Chapra(Saran), Pin code- 841418.
18. Rahul Kumar Mishra S/o Anil Kumar Mishra Vill+P.O. Mohabbat Parsa, P.S. Revelganj, Distt- Saran.
19. Dhanranjan Kumar Pandit S/o late Harnarayan Pandit Vill +P.O- Kopa Samhota, P.S. Kopa, Distt- Saran.
20. Sanjay Kumar Prasad S/o Dev Kumar Prasad Vill +P.O.- Saryupar, P.S. Bharhopur, Distt- Saran, Pin Code- 841208.



21. Raj Kumar Maharaj S/o lalan Mahraj Vill- Ekma, P.S. Ekma, District Saran, State- Bihar, Pin Code- 841208
22. Shailesh Kumar Prasad S/o Shivjee Prasad Vill- Saryupar, P.S. Daudpur , Bharhopur, Distt- Sarn, Pin Code - 841208
23. Avinash Kumar Pandey S/o Ram Naresh Pandey Vill- Rouja, Post- Chapra, District- Chapra, State- Bihar, Pin Code- 841301
24. Jitendra Kumar S/o Mohan Prasad Soni Vill- Rouja, Post- Chapra, District- Chapra, State- Bihar, Pin Code- 841301
25. Subash Kumar S/o Bijendra Pandit Vill- Trilokchak Shrinagar, PO +PS- Dighwara, Distt- Saran, State- Bihar, Pin Code- 841207
26. Kamlesh Kumar S/o Kedar Nath Sharma Vill Post- Sadhpur, P.S. Garkha, distt Saran, State - Bihar, Pin Code- 841415.
27. Abhishek Kumar S/o Rajendra Prasad At- Daldali Bazar, P.S. Town Thana, Post- Chapra, District- Saran, State- Bihar, Pin code- 841301
28. Shani Kumar S/o Rajendra Prasad At- Lah Bazar, Chapra, Post- Chapra, Distt- Saran, Pin Code- 841301
29. Dilip Kumar S/o Rajendra Sah Vill- Semrahiya, P.O. Jaitipur, P.S. Dariyapur, Distt- Saran, Pin Code- 841207
30. Sonu Kumar S/o Ganesh Sharma Near Dr. S.K. Boss Ward No. 20, Dahiyawa, P.O. Chhapra, P.S. Town Thana, Distt- Saran at Chapra, Pin Code- 841301.
31. Ravi Shankar Kushwaha S/o Shri Ram Kushwaha Vill- Makhdumganj, P.O. Gheghata, P.S. Chapra Muffasil, Distt- Saran, Pin Code- 841301
32. Chandan Kumar Sharma S/o Govinda Sharma Vill- Musher, P.O. Arvin Nagar, P.S. Dariyapur, Distt- Saran, Pin Code- 841201
33. Chandrashekhar Singh S/o Tejnarayan Singh Vill- Kanshdiyar, Post- Kashdiyar, P.S. Doriganj, Distt- Chapra(Saran), State- Bihar, Pin Code- 841216.
34. Amit Kumar Sharma S/o Durga Sharma Vill +P.O. Magaidih, PS Chapra(Muffasil), Distt- Saran, Pin Code- 841316
35. Raju Kumar S/o Jitan Mahto Vill- Shekhpura ,Post- Mukrera, P.S. Revelganj, Distt Saran, Pin Code- 841301.
36. Tarkeshwar Prasad Gupta S/o Shatruhan Prasad Gupta Vill- Mauna Mohalla, P.O. Chapra, P.S. Town Thana, Distt Saran, Pin Code. 841301.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Govt. of Bihar, Patna.
2. The Director, BIHAR PRASHASNIK SUDHAR MISSION SOCIETY , General Administration Department, Govt. of Bihar.
3. Human Resources Development Through, Principal Secretary, Govt. of Bihar, Patna.
4. District Magistrate, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Pd. Singh, Sr. Adv.



		Mr. Mukesh Kumar Singh, Adv.
For the Intervenor	:	Mr. Shashi Shekhar Tiwary, Adv.
For the State	:	Mr. Mrigendra Kumar, AC to GA4

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 18-08-2018

Heard learned counsel for the petitioner and counsel for the State

Two interlocutory applications, I.A. No. 5129 of 2018 & I.A. No. 6273 of 2018 have been filed by two persons, namely, Abhimanu Kumar Singh and Arijeet Das, Vikash Kumar, Himanshu Kumar and Vijay Kumar Sharma and made a prayer for their impleadment as a intervenors/petitioners to this writ application.

As there is no provision in the High Courts Rule to implead the person as intervenor as a petitioner, he can only be added as intervenor in opposition and, as such, the persons, if so desire, they can file their separate writ application.

With the aforesaid liberty, both the I.A. No. 5129 of 2018 and 6273 of 2018 are permitted to be withdrawn.

In the present case, the petitioners have raised a grievance that though their names are standing in the panel of 2014 but, after engagement of 120 persons, illegally the Department has scrapped the panel and deprived the petitioners from their engagement as a Data Operator and further submitted that the posts are available and all the persons, who are standing in



the panel, should be taken to be engaged and they should also be allowed engagement on the post of Data Operator in different establishments of the State of Bihar.

The short fact of this case is that on 6.6.2013, an advertisement was published by the Bihar Prashasnik Sudhar Mission Society, General Administration Department, Government of Bihar inviting application from the eligible candidates for the post of Data Operator (Executive Assistant) in Bihar. The advertisement mentions that the application has to be filed on-line and they will be paid the consolidated amount of Rs. 7,000/- per month, the age should be in between 18 to 45 but, the number of post has not been mentioned in the said advertisement but, in paragraph no.5, the petitioners has mentioned that 291 seats of the Executive Assistant for the Saran District and the break-up has also been provided as 77 for general, 81 for BC, 87 for EBC, 29 for SC, 1 for ST and 15 for BC Female. As per advertisement, the written examination was conducted, the petitioners and others were declared successful and merit list was prepared which was published on the official website of the Saran Division and, thereafter, the computer test was also taken in between 31.4.2014 to 12.8.2014. Finally, the petitioners were selected and the petitioners and others have been impaneled in the list of successful



candidates. As per merit list, this panel was valid for one year but, it was extended and remained valid for three years. The panel was prepared in the year 2014 and, later on, the letter of Principal Secretary cum Director of the Mission shows that instead of life of panel for one year, it was made to three years but, the panel was rescinded vide letter dated 16.11.2016 by the District Magistrate, Munger wherein it has been recorded that the life of panel was three years and that life is over and, ultimately, the petitioners were not appointed as Executive Assistant.

The Counter affidavit of the State shows that 120 persons from that panel were engaged as Executive Assistant. The panel was of 291 persons, the panel was extended from time to time till 3.11.2016 and, later on, as the panel was scrapped, the persons below 120 were not engaged as an Executive Assistant.

Learned counsel for the petitioners submits that the rest of the vacancies should have been filled up from that panel of 2014. By way of supplementary counter affidavit, he has made an allegation that certain persons who were in the year 2011 panel have been taken into service whereas the candidates of 2014 panel have been ignored and they have not been engaged. Learned counsel for the petitioner has drawn attention of this Court towards the letter of District Magistrate, Saran vide no. 1197 dated



10.8.2018 wherein it has been recorded that for the preparation of the panel of suitable candidates, a notification was issued on 31.3.2015 and all the application has to be filled up through on-line and, after receipt of the application, as per the roster clearance, a panel is to be prepared following the guideline for reservation but, the panel could not have been prepared, different departments have sent their requisition for Executive Assistant but, the life of panel has already lapsed. In consequence thereof, for preparation of fresh panel, a proper guideline has been sought vide letter dated 20.6.2018 from the head office. In the meeting dated 13.7.2018, the Selection Committee discussed the issue, took into note that the preparation of fresh process will consume considerable time, hence it would be proper, application received on-line be basis for initiation of process of selection of Executive Assistant.

Learned counsel for the petitioner submits that they are already in panel and they have been selected after passing the written test as well as the computer test, so they are competent persons to discharge the function of Executive Assistant and he has submitted that there cases should also be considered for engaging them to serve as Executive Assistant for different department of the PSU.



Learned counsel for the petitioner submits that as per the guideline, all the vacancies has to be filled up by the earlier panel, inasmuch as, some persons from the 2011 panel have been appointed as Executive Assistant and, as such, there cannot be any discrimination in the engagement of these petitioners.

Learned counsel for the State has taken a plea that the life of panel is over and from the panel which was prepared in 2014, from there 120 candidates have been appointed as Executive Assistant and when the life of the panel is over, which has been scrapped by the District Magistrate and which cannot be utilized for the purposes of their selection and further explained that those names who have been brought by way of supplementary affidavit are those who were selected in the year 2011, they were sent on deputation to the different departments, when the work of that department was over, those persons were returned to the District Magistrate, now they have been given fresh engagement. As it is not a fresh appointment or engagement from the 2011 panel but, the fact is that they were already appointed and working after the completion of the work when their services were returned, again they have been asked to discharge the duty from another organization. So, the stand taken by the petitioners is completely not cut much ice in support of their merit.



The fact is that the life of panel was one year but, it has been extended up to 2016, 120 persons have been appointed and, at later stage, the District Magistrate, Munger declared the panel to be invalid and no person below the petitioners have been appointed as Executive Assistant. So, he tried his best to persuade this Court for engagement on the basis of letter dated 10.8.2018 but, this letter is not very much clear as to whether this will be applicable to the persons who were impaneled in the year 2014 but, it shows that those applicants invited on the basis of notification dated 31.3.2015 will be covered. Learned counsel for the petitioners has also placed reliance on the letter dated 20.5.2011 written by the Director, Mission that till the panel is exhausted, all the persons under the waiting list should be engaged.

This Court is not going to give any opinion on this letter, However, if the Collector finds that the persons from the 2014 panel can also been engaged, it is for him to decide and if he decides in affirmative, in such circumstances, the case of the petitioners will also be considered.

For that, if the petitioners files their respective representation before the Collector, Chapra, he will pass an order



in accordance with law within a period of four months from the date of filing of the representation along with a copy of this order.

With the aforementioned observation, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.09.2018
Transmission Date	NA

