

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7738 of 2016

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Vikash Roy Son of Anil Roy, Resident of Village- Shighrol, P.O. Baltar, P.S. Azamnagar, District Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The District Magistrate, Katihar.
3. The Superintendent of Police, Katihar.
4. The Sub-Divisional Officer, Barsoi, Katihar.
5. The Circle Officer, Azamnagar Anchal, Katihar.
6. The Thana Incharge, Azamnagar Police Station, District Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Rahmatullah, Adv.

For the Respondent/s : Mr. Nawal Kishore Singh- SC2

Mr. Jai Prabhat Kishore, A.C. to SC-13

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-07-2018

Heard Mr. Md. Rahmatullah learned counsel appearing for the petitioner and Mr. Jai Prabhat Kishore A.C. to SC- 13.

With the consent of the parties the writ petition is heard and being disposed of at the stage of the admission.

The petitioner seeks issuance of a writ in the nature of mandamus to command respondent authorities to appointment the petitioner on the post of Chaukidar in place of his maternal grand father, Tufani Roy an Ex- Chaukidar who according to the petitioner had nominated him prior to his retirement on 25.06.2015.

The prayer has been opposed by Mr. Kishore as recorded in the



order passed on 17.07.2018 by submitting that even if a maternal grand father has been authorized to select his nominee under the Bihar Chaukidar Cadre Rules, 2006 (hereinafter referred to as 'the Cadre Rules') as amended from time to time but then there are certain stipulations present for exercising this nomination and which is eloquent from the 2014 Amendment to the 'the Cadre Rules', a copy of which is annexed at Annexure-A which inter alia casts an obligation on the superannuating Chaukidar to nominate his successor at least 30 days in advance of his superannuation or voluntary retirement. In reference to Annexure- 3 to the writ petition he submits that such nomination was made by the superannuating Chaukidar but merely 10 days before his superannuation and thus the request was not accepted as it was in violation of the statutory rules present at Clause 3(ii) of the amending notification at Annexure-A.

Mr. Rahmatullah learned counsel for the petitioner invited the attention of this Court to the command at Annexure- 2 to submit that this petitioner had been giving assistance to his maternal grandfather as is evident from Annexure-2 series but then the legal position is well settled and when the law prescribes a thing to be done in a particular manner it has to be done in that manner alone. In the present context since the nomination by a superannuating Chaukidar was to be given at least 30 days prior to his superannuation, that such option was



exercised by the maternal grand father of the petitioner mere 10 days of his superannuation as manifest from Annexure- 3, the nomination was not in tune with the statutory provisions and thus cannot vest any right in the petitioner to claim appointment.

No positive direction can be issued in the circumstances discussed. The writ petition is accordingly disposed of.

(Jyoti Saran, J)

Bibhash/Ranveer

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2018
Transmission Date	NA

