

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6931 of 2009

- =====
1. Upendra Ram, son of Sri Ram Chandra Ram, resident of Mohalla Allapatti, P.O. DMC, District Darbhanga
 2. Ram Babu Paswan, son of Sri Lal Babu Paswan, resident of Chhapaki Parari, P.O. Laxmisagar, District Darbhanga
 3. Smt. Nazama Khatoon, daughter of aler Mde. Shakeel, resident in the house of Md. Mustak Ansari at Mohall Allapatti, P.O. DMC, District Darbhanga
 4. Md. Islam, son of Phajale Karim, resident of Village Basatpur P.O. Ughara, District Darbhanga
 5. Sri Ajeet Kumar, son of Sri Lalit Kumar Das, resident of Village Saidnagar, P.O.Laheriyasari, District Darbhanga
 6. Sri Ajeet Kumar Nayak, son of late Kesso Nayak, resident of Village + Jhanjharpur, District Madhubani
 7. Smt. Umita Kumari, wife of Sri Dinesh Kumar, resident of Mohalla-Allapatti, P.O. Laheriyasari, District Darbhanga
 8. Sri Ajay Kumar Choubey, son of Sri Ramshrestha Choubey, resident of Village Mirzapur Jagani, P.O. Rampura, Singhwara, District Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar
2. The D.M.-cum-Chairperson, Sarva Shikha Abhiyan, Bihar Education Project Darbhanga
3. District Development Commissioner-cum-Vice Chairperson, Sarva Shikha Abhiyan, Bihar Education Project, Darbhanga
4. District Superintendent of Education-cum-District Programme Co-ordinator, Bihar Education Project, Darbhanga.
5. Bihar Education Projection through Director, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan
For the State : Mr. Arun kumar Sinha, Ac to GP 24
For Respondent BEPC : Mr. Girijesh Kumar

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 12-01-2018

Heard learned counsel for the petitioners and learned counsel for the Bihar Education Project Council.

In the present case, petitioner has sought a relief to issue mandamus to allow them to join to the post of Peon-cum- Night



Guards.

An advertisement was published on 28.2.2007 for 21 vacancies for appointment of Peon-cum Night Guards on contract basis for one year. The petitioners and others applied for the same. Finally they were selected but joining was not allowed. Later on it was found, an enquiry was conducted where it was found that selection was defective. Some of the persons who had also applied against that vacancy approached this Court vide C.W.J.C. No.2625 of 2009 (Sanjeev Kumar Mishra v. The State of Bihar) and C.W.J.C. No.9836 of 2010(Birendra Thakur v. The State of Bihar). Both of them have challenged the action of the department in refusing them to allow to join on the post of Peon. The Court has examined the matter and refused to interfere with the enquiry report where it was found that selection was defective but the Court has directed to take expeditious steps for fresh appointment and with respect to grant of relaxation of age was left to the department as the same is a policy matter.

The Bihar Education Project Council has issued a fresh advertisement dated 3.11.2013. The grievance of the petitioner is that there is no consideration of granting relaxation of age. The proposed appointment was for one year and that period has already lapsed and it was contract appointment. The person, even



though, holding the post of contract basis does not create right to post. In the present case right action has been taken by the department, in such circumstances, this Court cannot give direction to the department to accept the joining of the petitioners.

Learned counsel for the petitioners verbally submits that certain persons were appointed along with the present petitioners and they are working. The petitioners, if so sanguine, they will bring the aforesaid fact to the notice of the concerned authority, who will hold the enquiry and if it is found that their appointment was also on the basis of the defective selection process, appropriate action will be taken but after due notice to the aforesaid persons.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.1.2018
Transmission Date	NA

