

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.60 of 2018
IN
Civil Writ Jurisdiction Case No. 20254 of 2016**

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1. Naresh Mehta, Son of Late Rama Mahto, resident of Village- Chilkahi Bigha, P.O.+P.S.- Amba, Panchayat- Amba, District- Aurangabad.
 2. Pradip Singh, Son of Late Bandhu Singh, resident of Village- Narsan, P.O.- Etawan, P.S.- Haspura, Panchayat- Dumara, District- Aurangabad.
 3. Ajay Kumar Singh, Son of Ram Lakhon Singh, resident of Village- Arakhpur, P.O.- Jay Gobind Nagar, P.S.- Jamhor, District- Aurangabad.
 4. Lalin Prasad, son of Late Budhadev Prasad, resident of Village- Nabbichak, P.O.+P.S.- Shahajanhapur, District- Patna.
 5. Ravi Ranjan Kumar, son of Bishnudev Sharma, resident of Village+P.O.- Pitbans, P.S.- Naubatpur, District- Patna.
 6. Brij Bhushan Sinha, son of Ramji Prasad, resident of Village- Sundar Bigha, P.O.- Ajanoura, P.S.- Nursarai, District- Nalanda.
 7. Brind Kumar, son of Late Deoki Prasad, resident of Village- Gereria Bigha, PO+Panchayat- Koshiawan, P.S.- Ekangar Sarai, District- Nalanda.
 8. Nirajan Kumar, son of Shree Naresh Singh, resident of Village + P.O.- Jagatpur, Panchayat- Gangaura, P.S.- Chandi, District- Nalanda.
 9. Ramadhar Prasad, Son of Badhri Nath Singh, resident of Village+PO- Sakarauda, Panchayat-Sakaranauda, P.S.- Nalanda, District- Nalanda.
 10. Mithilesh Kumar, son of Nagina Prasad, resident of Village+PO+Panchayat- Diyawan, P.S.- Karai Parsurai, District- Nalanda.
 11. Kaushlendra Prasad @ Kaushlendra Kumar, son of Shree Ganauri Prasad, resident of Village- Chainpur, PO+Panchayat- Jaitpur, P.S.- Chandi, District- Nalanda.
 12. Jay Sharan, son of Late Saryug Sharan, resident of Village- Dariyapur, PO+Panchayat- Kachhiyan, PS- Nagar Nausha, District- Nalanda.
 13. Sunil Prasad, Son of Late Mohan Lal, resident of Village- Rasalpur, PO- Jagai, Panchayat- Gomahar, PS- Ekangar Sarai, District- Nalanda.
 14. Shailesh Kumar, son of Late Baldeo Prasad, resident of Village- Mojafara, PO- Baradih, Panchayat- Mojafara, PS- Islampur, District- Nalanda.
 15. Kishore Thakur, son of Late Nirasan Thakur, resident of Village- Ghodhan Ghat, PO+Panchayat- Ramai, PS- Forbesganj, District- Araria.
 16. Manoj Kumar Thakur, son of Janardan Thakur, resident of Village- Fulabaria, PO- Kumdarar, PS- Fenhara, District- East Champaran.
 17. Arun Kumar Jha, son of Indra Shekhar Jha, resident of Village+PO- Basaura, Panchayat- Siradai Patti, P.S.- Bangaon, District- Saharsa.
 18. Onkar Nath Singh, son of Jagarnath Prasad Singh, resident of Village+PO- Mangwar, PS- Basnahi, Panchayat- Mangwar, District- Saharsa.
 19. Umesh Prasad Sah, son of Sukadeo Sah, resident of Village- Behata Manpur, PO- Dehad, PS- Sonbarsa, Panchayat- Deohad, District- Saharsa.
 20. Kaushal Kishore Sinha, son of Shivanandan Sinha, resident of Village- Jogia, PO+PS- Chandi, Panchayat- Chandi, District- Nalanda.
 21. Ramesh Pandey, son of Jayram Pandey, resident of Village+PO+Panchayat- Sikaroul, PS- Sikarahatta, District- Bhojpur.

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.



2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The Director, Panchayati Raj, Bihar, Patna.
4. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
5. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.
6. The District Magistrate, Aurangabad.
7. The District Magistrate, Nalanda.
8. The District Magistrate, Bhojpur at Arrah.
9. Prem Kumar Singh, son of Ram Lakhan Singh, resident of Village- Ahiyapur, P.O.- Khutahan, P.S.- Haspura, District- Aurangabad.
10. Ashok Kumar, son of Jagdish Prasad, resident of Village- Shivganj, P.O.- Teldiha, P.S.- Madanpur, Panchayat- Teldiha, District- Aurangabad.
11. Gopal Singh, son of Hari Narayan Singh, resident of Village- Dashrath Bigha, P.O.+Panchayat- Kerap, P.S.- Rafiganj, District- Aurangabad.
12. Krishan Kumar Singh, son of Sri Chandradeo Singh, resident of Village- Dihuri, P.O.- Monjhar, P.S.- Harpura, Panchayat- Mahuad, District- Aurangabad.
13. Ram Janam Yadav, son of Ram Dhyani Yadav, resident of Village- Raham Bigha, P.O.+Panchayat- Parta, P.S.- Amba, District- Aurangabad.
14. Krishna Murari Sharma, son of Late Ram Lakhan Sharma, resident of Village- Matodha, P.O.+Panchayat- Nadoul, District- Patna.
15. Md. Ekaramul Haque, son of Late Abdul Aziz, resident of Village- Kanta (Bomabasti), P.O.- Tarabadi Chowk, Panchayat- Tarabadi, P.S.- Gandhaudaga, District- Kishanganj.
16. Shankar Prasad, son of Late Ram Nandan Prasad, resident of Village+P.O.+Panchayat- Sonbai, P.S.- Dhanarua, District- Patna.
17. Rabendra Kapoor, son of Late Ramji Singh, resident of Village+P.O.- Mahbalipur, P.S.- Paliganj, District- Patna.
18. Rajnandan Singh, son of Ramashish Singh, resident of Village- Darbeshpur, P.O.- Byapur, Panchayat- Darbeshpur Byapur, P.S.- Maner, District- Patna.
19. Rajesh Kumar, son of Late Mahavir Singh, resident of Village- Bandh Rasalpur, P.O.- Islampur, Panchayat- Mohan Chak, P.S.- Islampur, District- Nalanda.
20. Binod Prasad, son of Sidheshwar Prasad, resident of Village+P.O.+Panchayat- Ranipur, P.S.- Islampur, District- Nalanda.
21. Dinesh Prasad, son of Shree Ram Hari Prasad, resident of Village+Panchayat- Khaja Yetpur Sarai, PO- Sohrai, P.S.- Rahui, District- Nalanda.
22. Munni Lal, son of Ram Lakhan Mahto, resident of Village- Debariya, P.O.- Madhar, Panchayat- Bara, P.S.- Ben, District- Nalanda.
23. Dinesh Kumar Singh, son of Late Ram Praveesh Singh, resident of Village- Kanak Bigha, P.O.- Badi Chhariyari Panchayat- Chhariyari Bujurg, P.S.- Tharthari, District- Nalanda.
24. Ram Naresh Prasad, son of Late Ram Lakhan Prasad, resident of Village- Tribhuban Bigha, PO- Basdihi, Panchayat- Narayanpur, PS- Tharthari, District- Nalanda.
25. Shree Dhar Prasad, son of Late Lutan Mandal, resident of Village- Lailab, PO- Mamalkha, PS- Sabour, District- Bhagalpur.
26. Bimal Kumar Mandal, son of Late Thakur Prasad Mandal, resident of Village- Marado, PO- Mamalkha, PS- Sabour, District- Bhagalpur.
27. Sushil Kumar Ojha, son of Tarkeshwar Aojha, resident of Village- Garadihi, PO- Sarkanda, Panchayat- Tiyaal Pur, PS- Pirpanti, District- Bhagalpur.
28. Madan Prasad, son of Late Maral Lal, resident of Village- Sarari, PO- Daulatpur, Panchayat- Daulatpur, PS- Jamui, District- Jamui.
29. Shambhu Prasad, son of Late Lutan Prasad Sao, resident of Village- Pakari, PO-



- Bhauuda, Panchayat- Raipura, PS- Khaira, District- Jamui.
30. Narendra Singh, Son of late Ram Sharan, resident of Village- Mandra, PO- Nariyana, Panchayat- Bela, PS- Khaira, District- Jamui.
31. Rajendra Mandal, son of Shree Baleshwar Mandal, resident of Village- Manjhaladih, PO- Chhapardih, Panchayat- Belamwa, P.S.- Sono, District- Jamui.
32. Tunni Kumar, son of Birendra Prasad, resident of Village- Gudar, PO- Sanda, Panchayat- Mobarakpur, PS- Islampur, District- Nalanda.
33. Narendra Singh, son of Shudarshan Singh, resident of Village- Rasulpur, PO- Jamhor, Panchayat- Tengra, PS- Barun, District- Aurangabad.
34. Ganesh Kumar Gunjan, son of Upendra Prasad Yadav, resident of Village- Tharhi, PO- Pastpar, Panchayat- Part Pur, PS- Saur Bazar, District- Saharsa.
35. Rakesh Ranjan Kumar, son of Keshav Prasad Mehta, resident of Village+PO- Pama, Panchayat- Pama, PS- Saur Bazar, District- Saharsa.
36. Kamlesh Kumar, son of Shiva Nandan Prasad, resident of Village- Anantpur, PO- Madhopur, PS- Chandi, Panchayat- Rakhai, District- Nalanda.
37. Janardan Prasad Sah, son of Ambika Prasad Sah, resident of Village- Goughatta, PO- Guddu Chak, Panchayat- Mohanpur Gaughatta, PS- Budhu Chak, District- Bhagalpur.
38. Md. Jamil, son of Md. Maqbul, resident of Village+PO- Pirpanti, PS- Pirpanti, District- Bhagalpur.
39. Sri Kant Yadav, son of Shaligram Prasad Yadav, resident of Village- Budhu Chak, PO- Budhu Chak, Panchayat- Badinasi, PS- Amadanda, District- Bhagalpur.
40. Chandra Hans Pandey, son of Mohabali Pandey, resident of Village- Simanpur, PO- Digghi, Panchayat- Raj Gaon Araj, PS- Pirpanti, District- Bhagalpur.
41. Krishan Kumar Sah, son of Doman Sah, resident of Village+PO+Panchayat- Mahesh Rampur, PS- Pirpanti, District- Bhagalpur.
42. Radhe Shyam Singh, son of Yamuna Singh, resident of Village- Jhakhari, PO+Panchayat- Balia, PS- Amba, District- Aurangabad.
43. Jay Kumar Singh, son of Pundev Singh, resident of Village- Narayanpur, PO- Narhatpur, Panchayat- Narayanpur, PS- Sandesh, District- Bhojpur.
- Respondent/s

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Appearance :

For the Appellant/s : Mr. Arun Kumar

For the Respondent/s : Mr. PUSHKAR NARAYAN SHAHI- AAG6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 04-07-2018

Challenge in the present Letters Patent Appeal is to

the judgment dated 14.11.2017 passed by the learned Writ Court in

Civil Writ Jurisdiction Case No.20254 of 2016.

By the impugned judgment, the learned Writ Court



has refused to issue a writ of mandamus to the respondents to consider the claim of the petitioners who are said to be Dalpatis appointed prior to 23.08.1993, for appointment on the post of Panchayat Sevak/Panchayat Secretary. The learned Writ Court found that these petitioners were appointed prior to 23.08.1993 when the Bihar Gram Panchayat Raj Act, 1993 came into force (hereinafter referred to as the 'Act of 1993'). After coming into force of the Act, 1993 the respondent authorities came out with certain advisories making provisions for accommodation of Dalpati against the post of Panchayat Sevak/Panchayat Secretary. This provision was made following the orders of this Court.

These petitioners never raised any grievance at that stage against non-consideration or non-appointment of their names during the period 1993 till 2006 when the Act of 1993 was repealed and got replaced by the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act of 2006'). After coming into force of Act, 2006 the State Government in exercise of its power vested under Section 146 of the Act, 2006 has framed Bihar Gram Panchayat (Appointment, Power and Duties of Secretary) Rules, 2011 and now by virtue of the said Rules of 2011 appointment on the post of Panchayat Secretary is made by way of direct recruitment.

The learned Writ Court further noticed that even at



this stage no grievance was raised by the petitioners who all of a sudden have awoken from slumber after a lapse of decade from the date of coming into force of the Act, 2006.

We do not find any error in the reasoning and rationale provided by the learned Writ Court. If the petitioners did not raise any issue with regard to their accommodation/appointment on the post of Panchayat Sevak/Panchayat Secretary prior to the year 2006 when the Act of 2006 came into force, at this stage, when the total selection procedure has gone under change and Act of 1993 stands repealed, the learned Writ Court has rightly refused to exercise its’ extra-ordinary writ jurisdiction under Article 226 of the Constitution of India and has rightly exercised its discretion in not entertaining the claim of the petitioners for a direction to the respondents at this belated stage.

The Letters Patent Appeal has no merit. It is dismissed accordingly.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.07.2018
Transmission Date	N/A

