

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1534 of 2018

1. Ashutosh Kumar, son of Sri Vijay Sharma, resident of Village- Kespa, P.O.- Kespa, Police Station- Alipur, District- Gaya.
2. Rahul Kumar, son of Anandi Rai, resident of Village- Samhariya, P.O.- Chauri, Police Station- Kaler, District- Arwal.
3. Shambhu Kumar, son of Late Basudeo Ram, resident of Rajendra Path, Telbigha, P.O.- R.S. Gaya, Police Station- Kotwali, District- Gaya.
4. Mahesh Yadav, son of Sri Ram Bilash Yadav, resident of Village- Vinowa Nagar, P.O.- Chandauti, Police Station- Magadh Medical, District- Gaya.
5. Shailendra Choudhary, son of Late Bali Chaudhary, resident of Village+ P.O.- Srirampur, Police Station- Sherghati, District- Gaya.
6. Rahul Kumar, son of Late Arvind Kumar, resident of Village+ P.O.- Kespa, Police Station- Alipur, District- Gaya.
7. Vikash Kumar Roy, son of Rajeev Singh Yadav, resident of Vikash Bhawan, Gango Bigha, A.P. Colony, P.O.+ Police Station- Rampur, District- Gaya.
8. Md. Khalid Anwar, son of Md. Mohiuddin Ansari, resident of Village- Chakkarbandha Bhandar, P.O.- Raniganj, Police Station- Imamganj, District- Gaya.
9. Pintu Kumar, son of Late Umesh Prasad, resident of Sewanagar Road No. 1, P.O.- Karimganj, District- Gaya.
10. Vikash Kumar, son of Ram Kishore Yadav, resident of Buxar Tole Panchayan Bigha, P.O.- Buxar, Police Station- Goh, District- Aurangabad.
11. Vimal Prakash, son of Arun Kumar Sinha, resident of Bedi Bagh, Taj Colony, District- Gaya, Bihar.
12. Anita Kumari, daughter of Ramdeo Chaudhary, resident of Village- Rewara, P.O.- Chakand, Police Station- Chakand, District- Gaya.
13. Kanchan Kumari, wife of Navin Giri, resident of Village- Tehta Math, P.O.- Tehta, Police Station- Makhdumpur, District- Jehanabad.
14. Kavita Kumari, wife of Parmanand Kumar, resident of Village- Masauta Khurd, P.O.- Baragandhar, District- Gaya, Bihar.
15. Suraj Kumar, son of Arun Kumar Thakur, resident of Village- Panchmahalla, P.O.- Navdiha, Police Station- Khizarsarai, District- Gaya.
16. Munni Kumari, daughter of Ramji Mandal, resident of Village- Katari Hill F.C.I. Road, Police Station- Chandauti, District- Gaya.
17. Prince Kumar, son of Ram Kumar Sharma, resident of Brahamarshi Chowk, Sri Krishna Nagar, Ahri, District- Aurangabad.
18. Gyan Prakash, son of Amay Bahadur, resident of Mohalla- Mustafabad, Devi Asthan, P.O.- Rampur, Police Station- Rampur, District- Gaya.
19. Kumar Rajiv Ranjan Trivedy, son of Baliram Tiwari, resident of Village and P.O.- Nagawagarh, Police Station- Gurua, District- Gaya.
20. Harendar, son of Keshwar Yadav, resident of Village- Bali, P.O.- Dighaura, Police Station- Tekari, District- Gaya.
21. Chandan Kumar Paswan, son of Nageshwar Paswan, resident of Village and P.O.- Kachhuvi, Police Station- Lakhnaur, District- Madhubani.
22. Mukesh Kumar, son of Naresh Singh, resident of Village- Lebuda, P.O.- Itwan, Police Station- Mohanpur, District- Gaya.
23. Nisha Kumari, daughter of Dhanik Das, resident of Village- Hemjapur, P.O. Shivkund, District- Munger, Bihar.
24. Kumari Ranju Singh, wife of Sri Brajesh Kumar, resident of Village and P.O.- Latta, Police Station- Pauthu, District- Aurangabad.



25. Ujala Vishen, son of Shakti Kumar Singh, resident of Sri Krishna Nagar, P.H.D. Colony, Ahri, District- Aurangabad, Bihar.
26. Asha Rani, daughter of Sri Nand Kishore Gahlot, resident of Village- Barirat, P.O.- Titeri, Police Station- Guraru, District- Gaya.
27. Ravi Kumar, son of Late Jai Prakash Sharma, resident of Vinova Nagar, P.O.- Chandaui, Police Station- Magadh Medical, District- Gaya.
28. Srikant Sharma, son of Ramdhani Singh, resident of Village- Barma, P.O.- Sahopur Barma, Police Station- Gurua, District- Gaya.
29. Deepak Kumar, son of Sri Raju Prasad, resident of Village- Kendua, P.O.- Kendui, Police Station- Magadh Medical, District- Gaya.
30. Pankaj Kumar, son of Sri Lal Narayan Singh, resident of Village and P.O.- Sandaa, Police Station- Tekari, District- Gaya.
31. Anamika Kumari, daughter of Rajendra Kumar, resident of Dalmia, Compound Road No. 3, Police Station- Muffassil, P.O.- Buniyadganj, Lakhibagh Manpur, District- Gaya.
32. Anjani Kumari, daughter of Sri Suresh Sharma, resident of Village and P.O.- Kespa, Police Station- Alipur, District- Gaya.
33. Rupam Kumari, daughter of Sri Srikant Sharma, resident of Village- Pirijpura, P.O.- Sikandapur, Police Station- Shakurabadm, District- Jehanabad.
34. Avinash Kumar, son of Late Umashankar Sharan, resident of Mohalla- Krishnapatti, P.O.- Jamui, P.S.- Jamui, District- Jamui.
35. Santosh Kumar Sharma, son of Sri Ram Kumar Sharma, resident of Brahamarshi Chowk, Sri Krishna Nagar, Ahri, District- Aurangabad.
36. Mukesh Kumar, son of Parmeshwar Thakur, resident of Village- Yoganijaga, P.O.- Bariyarpur, Police Station- Sakra, District- Muzaffarpur.
37. Manish Giri, son of Dharmendra Giri, resident of Village- Berri, P.O.- Ranjan, Police Station- Sirdalla, District- Nawada.
38. Shiv Shankar Chaudhary, son of Sri Satya Narayan Chaudhary, resident of Village- Akaha, P.O.- Akaha, Police Station- Ujiyarpur, District- Samastipur.
39. Rani Vartika, daughter of Sri Sunil Gupta, resident of Village and P.O.- Bithosharif, Police Station- Chandaui, District- Gaya.
40. Abhishek Ranjan, son of Sri Madheshwar Singh, resident of Village- Satpura, P.O.- Bara Koryam, Police Station- Arwal, District- Arwal.
41. Prakash Kumar, son of Late Munaki Das, resident of Village- Binova Nagar, P.O.- Chandaui, Police Station- Magadh Medical, District- Gaya.
42. Daizy Kumari, wife of Awadhesh Kumar, resident of Village- Bathani, P.O.- Karki, Police Station- Konch, District- Gaya.
43. Suman Kumar, son of Sri Deonarayan Yadav, resident of Village- Charkawa, Upar Dih Haji, P.O. and Police Station- Rafiganj, District- Aurangabad.
44. Rakesh Kumar, son of Sri Rajeshwar Ray, resident of Village- Karhatiya Bujurg, P.O.- Karhatiya Buzurg, P.S.- Goraul, District- Vaishali.
45. Rajdeo Ram, son of Sri Shivbarat Ram, resident of Village and P.O.- Solra, Police Station- Paraiya, District- Gaya.
46. Pinki Kumari, daughter of Late Dharmendra Kumar, resident of Village- Rajendra Path, Telbigha, Gaya, P.O.- R.S., Police Station- Kotwali, District- Gaya.
47. Upendra Kumar, son of Sri Surendra Yadav, resident of Village- Bhagwanpur, P.O.- Chandaui, Police Station- Belaganj, District- Gaya.
48. Sumant Paswan, son of Sri Siddheshwar Paswan, resident of Village- Sheikhpura, P.O.- Sadopur, Police Station- Alipur, District- Gaya.
49. Anil Kumar, son of Sri Mundrika Prasad Singh, resident of Village- Kharouna Khurd, P.O.- Karma Pandey, Police Station- Paraiya, District- Aurangabad, Bihar.
50. Guddu Kumar, son of Sri Shyamdeo Paswan, resident of Village and P.O.-



Pachada, Police Station- Hisua, District- Nawada.

51. Randhir Kumar Gautam, son of Sri Babulal Rajak, resident of Village- Nila Tola Dindayal Nagar, P.O.- Pandey Parsawa, Police Station- Buniyadganj, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The Principal, Anugrah Narain Magadh Medical College, Gaya.
5. The Deputy Development Commissioner, Gaya.
6. The Secretary to the Commissioner, Gaya.
7. The Regional Additional Director, (Health Services), Magadh Division, Gaya.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2733 of 2018

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1. Manish Kumar, S/o Upendra Kumar Singh,
2. Amarjeet Kumar, S/o Vinay Singh,
3. Bajjnath Kumar, S/o Rameshwar Yadav,
4. Nikhil Kumar, S/o Anil Kumar Singh,
5. Moti Choudhary, S/o Saryug Choudhary,
6. Niraj Kumar, S/o Krishna Kumar Singh,
7. Rakesh Kumar, S/o Bijay Prasad,
8. Nikhil Raj, S/o Kamal Paswan,
9. Avinash Kumar Singh, S/o Satyendra Pratap Singh,
10. Shambhu Kumar, S/o Bishwanath Choudhary,
11. Ashok Kumar, S/o Kameshwar Yadav,
12. Adarsh Paswan, S/o Awadhesh Paswan,
13. Shabana Pravin, S/o Md. Ashraf Ali,
14. Vivek Kumar, S/o Kamlesh Kumar,
15. Manti Devi, W/o Suresh Ram,
16. Aasiya Praveen, S/o Ashraf Ali,
17. Vishal Kumar Singh, S/o Mithlesh Singh,
18. Prem Kumar, S/o Ramjiwan Prasad,
19. Praveen Azmi, D/o Ashraf Ali,
20. Sufiya Perween, D/o Md. Ashraf Ali,
21. Gorakh Kumar, S/o Om Prakash Singh,
22. Jai Prakash Kumar, S/o Rajendra Tiwari,
23. Kundan Kumar Singh, S/o Rabindra Kumar Singh,
24. Jyoti Prakash Yadav, S/o Pradip Yadav,
25. Binita Kumari, W/o Late Jitendra Choudhary,
26. Usha Devi, W/o Ashok Choudhary,
27. Vikash Thakur, S/o Munna Thakur, All Class- IV, employee of Anugrah Narayan Magadh Medical College, Gaya, Town- Gaya, District- Gaya.

.... Petitioner/s

Versus



1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. Vishesh Karya Padadhikari, Health Department, Govt. of Bihar, Patna.
5. The Principal, Anugrah Narayan Magadh Medical College, Gaya.
6. The District Development Commissioner, Gaya.
7. The Secretary to the Commissioner, Gaya.
8. The Regional Additional Director, (Health Services), Magadh Division, Gaya.

.... Respondent/s

Appearance :

(In CWJC No.1534 of 2018)

For the Petitioner/s : Mr. P. K. Shahi, Senior Advocate
Mr. Manish Kumar, Advocate

For the Respondent/s : Mr. Ramdhar Singh, G.P.-25

(In CWJC No.2733 of 2018)

For the Petitioner/s : Mr. Rajendra Prasad Singh, Senior Advocate
Mr. Ravi Kumar Singh, Advocate

For the Respondent/s : Mr. Anil Kr. Verma

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-07-2018

Heard learned counsel for the petitioners and learned counsel for the State.

In both the cases common issues have been raised and with the consent of the parties both the cases are being heard together and disposed of at the admission stage by this common order.

For convenience, the facts of case of CWJC No. 2733 of 2018 is taken into consideration, whenever there will be need the Court may take help of the facts mentioned in another writ petition.

In this present writ petition, the petitioners are challenging the order dated 22.12.2017 passed by Vishesh Karya Padadhikari, Health Department, Government of Bihar, Patna (respondent no.4) as well as



order dated 23.12.2017 passed by Principal of Anugrah Narayan Singh Magadh Medical College, Gaya, whereby and whereunder appointment of all contractual persons have been cancelled, assigning the reason that the Commissioner, Magadh Division, Gaya constituted a three man committee which submitted the inquiry report where it has been pointed out irregularities committed by the Selection Committee in the selection of contractual candidates.

This matter relates to the appointment of class IVth employees in Anugrah Narayan Singh Magadh Medical College, Gaya and all together 108 persons have been selected. It appears that the Inquiry Committee found that selection has not done in proper manner. There is no dispute that an advertisement was published, thereafter all persons participated in the selection process. It also appears from the proceeding dated 19.11.2016, 12 members committee under the chairmanship of the Commissioner, Gaya held the meeting wherein it has been recorded that there was roster clearance. The draft advertisement was approved and whereafter an advertisement was published for inviting application from the interested persons. It also appears that Principal of the Anugrah Narayan Singh Magadh Medical College, Gaya vide Memo No. 1870 dated 10.12.2016 constituted a five members Selection Committee and accordingly these petitioners were selected. It has been brought to the notice of this Court that one



of the members of the Selection Committee was Secretary of the Commissioner who participated in the selection process. Records show that the Commissioner had received several complaints that selection was not conducted fairly, properly and transparently. It also appears that the Commissioner, Magadh Division vide letter dated 25.07.2017 constituted a three man committee in which one of the member is Secretary who was member of the Selection Committee.

It appears that the Commissioner had committed a wrong when his Secretary is member of the Selection Committee, in such circumstance, his Secretary should not have been member of the Inquiry Committee, entails subsequent committee was not constituted fairly and properly, it itself shows that something wrong has been done with regard to the constitution of Committee.

The report has been attached with the counter affidavit of CWJC No.2733 of 2008 which is marked as Annexure E mentions irregularities committed during the selection process. One of the irregularity has been shown in the report that roster point was not properly followed.

Learned counsel for the petitioners has submitted that in the proceeding dated 19.11.2016, Commissioner himself was Chairman of the meeting where it has been mentioned that roster clearance was obtained. He further submits that before taking any action for removal



they were not given any notice.

Be that as it may, so far as the internal inquiry is concerned learned counsel for the petitioners has submitted that petitioners have not been given any notice or hearing which can not be accepted, as there is no law, a committee constituted for internal enquiry will be required to give hearing as the report of such enquiry is for internal consumption with a view to take next step.

So far status of the petitioners are concerned, they are contractual employees for one year or till regular appointment is made. They cannot claim their status as permanent employee and cannot be given protection as provided under Article 311 of the Constitution of India. But one thing is there, action is required to be taken in fair and transparent manner. It appears that when the Secretary of Commissioner was one of the member of selection process, and proceeding dated 19.11.2016 itself records that there was a roster clearance whereafter giving the finding of violation of roster clearance prima facie appears to be wrong, reflects conflicting situation.

For the ends of justice, this Court directs the Principal Secretary, Health Department, Government of Bihar, Patna to constitute a High Level Committee and enquire into the matter and if it is found that the selection was proper and fair, action would be



taken accordingly *vice-versa* if it is found that the selection was not conducted fairly, in such circumstances, proper action will be taken in accordance with law.

In the meantime, the posts will not be filled up by the second group of persons but the Committee should be constituted within a period of one week from the date of receipt/production of a copy of this order. The constituted committee will submit its report within a period of four weeks thereafter. The constituted committee will examine complaint mentioned in the enquiry report as well as all the points raised but will not be influenced by earlier report of the enquiry committee constituted by Commissioner.

With the aforesaid observations and directions these writ petitions are disposed of.

(Shivaji Pandey, J)

Vinay/-

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

