

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7508 of 2015

1. Sunita Kumari, wife of Ran Janam Pandit, resident of village Shivdah, Police Station G.B. Nagar, Tarwara, District Siwan at present posted and working as A.N.M. R, PHC, Maharajganj District Siwan.
2. Urmila Kumari, daughter of late Gopal Ram, resident of village Dewaria, Police station Maharajganj, District Siwan at present posted and working as A.N.M. R, P.H.C. Maharajganj, District Siwan.
3. Sobha Kumari, daughter of Rama Shanakar Singh, resident of village Supauli, Police station Pachrukhi, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
4. Sangita Kumari, wife of Shyam Lal Prasad, resident of village Bhriugu Baliya, Police station Maharajganj, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
5. Meena Shrivastava, daughter of Sudama Prasad Shrivastava, resident of village Kazi Bazar, Maharajganj, Police station Maharajganj, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
6. Pratema Shrivastava, daughter of Sudama Prasad Shrivastava, resident of village Kazi Bazar, Maharajganj, Police station Maharajganj, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
7. Ruby Kumari, daughter of Surendra Prasad, resident of village Narsanda, Police station Chandi, district Nalanda at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
8. Kumari Sumati, daughter of Ram Pravesch Prasad, resident of village Sahlaur, Police station Pachrukhi, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
9. Baby Kumari, daughter of Vishwanath Thakur, resident of village Surajpura, Police station Basantpur, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
10. Saloni Kumari, daughter of Ishwar Singh, resident of village Mararkala, Police station Bhagwanpur, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
11. Sangita Kumari, daughter of Subash Mistri, resident of village Laxmipur, Ward No. 27 Andar Dhala, Police station Siwan, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.
12. Savitri Kumari, daughter of Ram Baksish Prasad, resident of village Angaruli Pandeypur, Police station Darundha, District Siwan at present posted and working as A.N.M. R, P.H.C., Maharajganj, District Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna



2. The Director-in-Chief, Health Department, Government of Bihar, Patna.
3. The Secretary -cum- Executive Director, State Health Societies, Bihar, Patna.
4. The District Magistrate -cum- Chairman, District Health Societies, Siwan District Siwan.
5. The Civil Surgeon -cum- Secretary, District Health Societies, Siwan, District Siwan.
6. The Incharge Medical Officer, Primary Health Centre, Basantpur, District Siwan.
7. The Incharge Medical Officer, Primary Health Centre, Hussenganj, District Siwan.
8. The Incharge Medical Officer, Primary Health Centre, Daurauli, District Siwan.
9. The Incharge Medical Officer, Primary Health Centre, Lakri Nabiganj, District Siwan.
10. The Incharge Medical Officer, Primary Health Centre, Maharajganj, District Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh

For the Respondent/s : Mr.Gp17- Binodji Verma

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 18-06-2019

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

2 Pursuant to an Advertisement issued inviting applications for contractual appointment as Auxiliary Nurse Midwifery (for brevity, ANM), petitioners have made their applications. Petitioners were given contractual appointment. During verification of the registration certificates submitted by the petitioners, it came to surface that the certificates were forged and



fabricated. On the basis of the said finding, total 68 registration certificates of ANMs including the petitioners were found to be forged and fabricated. Petitioners had obtained contractual engagement on the basis of such forged registration certificates.

3 Writ petition has been filed raising a grievance that the certificates have been accepted with open eyes. The cancellation of petitioners' contractual appointment on the basis of finding that the certificates are fake is not sustainable as the same has been done without giving any opportunity of hearing to the petitioners.

4 Employment of the petitioners were, admittedly, contractual. Petitioners, therefore, are not entitled to the protection contemplated under Article 311 of the Constitution of India as they were not Government employees. Another point, which is worth noticing, is that other than raising the plea of non-service of notice, no averment has been made in the writ petition to the extent that the certificates, submitted by the petitioners, were valid. A plea regarding equity has been raised in the pleadings by asserting that since the certificates were accepted with open eyes, petitioners could not have been subjected to such removal.



5 Pleadings, therefore, do not dispute the fact of the certificates submitted by the petitioners being fake on the basis of which they have obtained their contractual employment.

6 In the circumstances, this Court does not find any infirmity with the removal of the petitioners and condition of their contractual appointment.

7 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.06.2019
Transmission Date	NA

