

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6212 of 2019

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1. Agriculture Students Association of Bihar Head Office-Khasmahal, Road No. 2, Karbigahiya, District-Patna, Pin-800001, through its President Shri Vivek Kumar Saurabh, Male, aged about 29 years, Son of Shri Kapildev Roy, R/o Ward No. 7, Naharwar, Maina, District-Saharsa, Pin-852216
 2. Vivek Kumar Saurabh, S/o Shri Kapildev Roy R/o Ward No. 7, Naharwar, Maina, District-Saharsa, Pin-852216

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Patna
2. Principal Secretary General Administration Department, Bihar, Patna
3. Principal Secretary Agriculture Department, Bihar, Patna
4. Director Horticulture, Directorate of Horticulture, Agriculture Department, Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Abhinav Srivastava
For the Respondent/s : Mr.Gajendra Pd. Yadav (SC17)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 22-04-2019

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



2. The petitioner no. 2 is the member of petitioner no. 1 which is a registered society of the students who have obtained degrees in Agriculture and allied subjects.

3. The petitioners have approached this Court against the advertisement, published on the website of the Agriculture Department in the month of February, 2019, whereby applications have been invited for being appointed / engaged on a temporary basis, for the maximum of a year or till such time that regular appointment is made, for the post of Block Horticulture Officer; but only such persons who could not be appointed as Agriculture Coordinators in the service of the State Government.

4. It has been pointed out to this Court that 357 vacant posts of Block Horticulture Officer was available on the date when such advertisement was issued.

5. It has been argued on behalf of the petitioners by Mr. Abhinav Srivastava, learned advocate, that for the post of Agriculture Coordinators, no special degree in Horticulture is required, and if some persons, who have the requisite degree in horticulture are appointed even on temporary basis, they



would have some advantage over the petitioners who are aspirants for such posts of Block Horticulture Officer since they have requisite qualification to apply for such posts.

6. It has also been brought to the notice of this Court that prior to the aforesaid advertisement, which has been challenged in the present writ petition, the State Government has framed the Bihar Agriculture Subordinate Service Category-7 (Horticulture) Rules, 2015, which delineates the process of direct appointment, age limit, reservation and requisite qualification.

7. One of the arguments of the learned counsel for the petitioners is that with the framing of such rules, referred to above, and the same having been gazetted, even for temporary appointment / engagement, such rules could not have been bypassed. The reason for making such submission is that in case some of the persons having requisite qualification who had failed to obtain appointment as Agriculture Coordinators, would ultimately get a premium when they would apply against the advertisement under the Rules of 2015 for permanent appointment on the post of Block Horticulture



Officer, as there is a resolution of the Government for giving weightage to them.

8. It is in this context that the resolution of the State government for giving weightage to such persons who have worked on temporary basis in the appointment of Block Horticulture Officer has also been challenged in the present petition.

9. However, it is an admitted position that pursuant to the aforesaid advertisement under challenge, the posts have been filled up. Such evidences are only temporary and are subject to their termination on regular appointment under the rules of 2015.

10. Ms. Alka Verma, learned advocate for the respondents has informed this Court on the basis of the statement of fact received by her that a requisition has already been sent for initiating the process of appointment of Block Horticulture Officers under the Rules of 2015 referred to above.

11. In that view of the matter, this Court would not like to pass any order with respect to the prayer made in the



petition for quashing the advertisement, inviting applications of such persons who have failed to obtain appointment as Agriculture Coordinators.

12. However, under the circumstances, this Court is of the view that if an application is made by the petitioners before the Principal Secretary, Agriculture Department, Government of Bihar, Patna, within a period of four weeks indicating that in the first place, even the temporary appointment ought to have been made only in accordance with the Rules which have been framed in that regard and that if such appointments have been made only for a period of one year or till such time that regular appointment is made, then the government must reconsider the resolution by which weightage is required to be given to such candidates who would have worked against the sanctioned vacant post of Block Horticulture Officers on temporary basis. It will be open for the petitioners to request for early initiation of the process of regular appointment and concluding the same within an urgent dispatch.



13. Should such a representation be filed before the concerned respondent (Respondent No. 3), he shall, after hearing the parties, take a decision and shall pass orders in accordance with law within a further period of six weeks thereafter, but definitely before the process of appointment on regular basis is concluded.

14. With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	23.04.2019
Transmission Date	

