

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16309 of 2010

1. Indrakant Sharma, Son of Suresh Sharma, Resident of Village- Walipur, P.S. Piparia, District Lakhisarai.
2. Bishundeo Mishra, Son of late Rambhaju Mahto, resident of Village- Harewa, P.S. Halsi, District Lakhisarai.
3. Bulbul Kumari, Wife of Ram Subhist Kumar, D/o Sadan Pd. Singh, Resident of Village- Jagdishpur, P.S. Surajgarha, District Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Bihar, Patna.
3. The Principal Secretary, Agriculture Department, New Secretariat, Bihar, Patna.
4. The Director, Agriculture Department, New Secretariat, Bihar, Patna.
5. The District Magistrate, District Lakhisarai.
6. The District Agriculture Officer, Distt. Lakhisarai.
7. The Project Director, Atma, District lakhisarai.
8. D.K. Mahto, Retired Agriculture Scientist, District Lakhisarai.
9. Vinay Kumar, Son of Ramnandan Prasad Singh, Resident of Village- Sabikpur, P.S. and P.O. and District Lakhisarai.
10. Rampriya Kumar, Son of Bindeshwari Sharma, Resident of Village- Dhadhisir, P.S. and P.O.Chando, Distt. Lakhisarai.
11. Raushan Kumar, Son of Ram Balak Singh, Resident of Village- Mohanpur, P.O. and P.S. Pipariya Distt Lakhisarai.
12. Premchand Kumar, Son of Ramjatan Singh, Resident of Village- Dariyapur, Police Station- Barahiya, District- Lakhisarai.
13. Rajiv Kumar Son of Shyamnandan Singh Resident of Village- Jaitpur, P.S. and P.S. Barahiya, Distt. Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Siya Ram Sahi, Advocate Mr. Pankaj Kumar, Advocate
For the State	:	Mrs. Shilpa Singh, GA-XII, Mr. Ram Vinay Pd. Singh, AC to GA-XII
For the Pvt. Respondents	:	Mr. Binit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 02-04-2019

Heard parties.



In the present case, the petitioners are challenging the selection and recruitment of private respondents as 'Kisan Salahkar' on that ground that they filed incomplete application against the advertisement, a list of rejected candidates was published, the names of private respondents were there in that list, but later on, they were selected and appointed as 'Kisan Salahkar'.

The short fact of this case is that an Advertisement in Hindi daily newspaper, namely, Hindustan was published on 18.04.2010, with stipulation that belated application, incomplete application and without attachment of proper certificate will be treated to have been rejected. As per the modified schedule, the last date for application was 15.05.2010, the draft merit list was to be published on 25.05.2010, objections, if any, to be filed by 5.06.2010 and finally, merit list was to be published on 12.06.2010 and issuance of engagement letter by 17.06.2010, lastly selected candidates were to give letter of consent by 15.07.2010. In pursuance thereof, the petitioners and the private respondents have applied for the post of 'Kisan Salahkar'. Two lists were published. A draft select list was published having the names of 104 candidates, another list simultaneously was published of the rejected candidates on 25.05.2010 in which names of private respondents were standing later on those who were in rejected list,



were declared successful. Finally, the District Agricultural Officer vide letter dated 5.09.2010 (Annexure-9) issued the final list of selected candidates and names of the private respondents are standing therein.

The grievance has been raised by the petitioners that if their applications were rejected on the ground of incomplete application, in such situation, in any manner the defect cannot be rectified at the latter stage as the advertisement has not prescribed such exercise could be allowed to be done either by candidate or the authority concerned, the prescription attached in the advertisement cannot be waived.

Counsel for the State has drawn attention of the noting of the Collectariate where it has been mentioned that altogether application of 132 candidates were rejected on the ground of absence of affidavit, but the Department has given opinion that the application would not be rejected in absence of affidavit filed by the candidate and later on, affidavit was accepted whatever the defects were standing were allowed to be removed accordingly, in pursuance thereof, 72 objections were received wherein it has been informed that affidavit was there along with application but on different reasons, out of 235 applications, 17 applications were rejected. Some of the applications were rejected on the ground that



certificates were not issued from a proper Agricultural Center and, accordingly, suggested that applications should not be rejected and the counsel for the State submits that in view of the letter of the Department, the affidavits were filed mentioning therein that the applications, which were filed by them, were with the affidavits and they have wrongly been shown in the list of rejected applications.

Counsel for the private respondents has also stated that when the list of tentative selected candidates was published, the private respondents filed their objections mentioning therein that they filed applications along with the affidavits, so the defects should have been ignored and their cases should be considered for the selection and recruitment to the post of 'Kisan Salahkar'.

In terms of the Advertisement, the per-requisite is that the application forms should be complete, if the application form has been received beyond the time prescribed or the application was defective, in both the counts, application of the candidate would be treated to have been rejected. As the plea has been taken by the State as well as private respondents that the respondents have filed their respective applications attaching with affidavit with the applications and wrongly their applications were rejected



is a disputed question of fact cannot be examined in the present proceeding.

In that view of the matter, this Court directs the Commissioner, Munger Division to call for the records from the Collectorate, examine the same and record a finding as to whether affidavits were attached along with the applications filed by the private respondents against the Advertisement published for appointment/recruitment of 'Kisan Salahkar'. If the finding is recorded by the Commissioner that the applications of the private respondents were complete in the sense that it was attached with affidavits and all certificates, in such event, it will not be treated that this Court has interfered with the order of their selection, but it is found that the applications of the private respondents are incomplete, in such circumstances, in terms of the advertisement, the defect cannot be rectified at later stage and their selection and appointment would be treated to have been quashed.

The enquiry must be completed within a period of four months from the date of receipt/production of a copy of this order.

Before parting with this order, this Court finds the initial engagement on contract basis is for eleven months, service would be extended for further period on the basis of their performance. It is not known to



this Court as to whether the period of contract has been extended on the basis of assessment of their performance. If it is not done, this Court directs the Collector, Lakhisarai to ensure the assessment of their performance, on that basis period of contract would be extended.

With the aforesaid observation and direction, this application is disposed of.

(Shivaji Pandey, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	11.04.2019
Transmission Date	N.A

