

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.372 of 2018

In

Civil Writ Jurisdiction Case No.10679 of 2012

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1. Prem Nath Paswan Son of Sri Gaya Paswan, Resident of Village- Gobarsahi, Police Station- Sadar, District- Muzaffarpur.
 2. Jitendra Kumar Chaudhary, Son of Sri Sone Lal Chaudhary, Resident of Village- Mornisaf, Police Station- Maniari, District- Muzaffarpur.
 3. Anil Kumar Chaudhary, Son of Mukhi Lal Chaudhary, resident of Village Post Office- Karma, Police Station- Kurhani, District- Muzaffarpur.
 4. Sanjay Kumar Paswan, Son of Late Chulhai Paswan, Resident of Village- Sakra Mansurpur, Police Station- Sakra, District- Muzaffarpur.
 5. Sunil Kumar Rajak, Son of Late Gorakh Rajak, Resident of Village- Jogiamath Serajganj, Police Station- Nagar, District- Muzaffarpur.
 6. Bishundeyal Paswan, Son of Sri Basudeo Paswan, Resident of Village- Bochaha, Police Station- Bochaha, District- Muzaffarpur.
 7. Deepak Kumar Rajak, Son of Sri Sitaram Rajak, Resident of Village- Purani Bazar Siyanarain Mandir, Police Station- Mithanpura, District- Muzaffarpur.
 8. Kapildeo Paswan, Son of Yadunandan Paswan, Resident of Village- Bobarsahi, Police Station- Sadar, District- Muzaffarpur.
 9. Sanjit Kumar Chaudhary, Son of Krishna Kumar Chaudhary, resident of Village Post Office- Susta Madhopur, Police Station- Sadar, District- Muzaffarpur.
 10. Bishwanath Ram, Son of Ramdeo Ram, Resident of Village - Patiasa Jalal, Police Station- Ahiyapur, District- Muzaffarpur.
 11. Meghu Rajak, Son of Sri Yogendra Rajak, resident of Village- Nayagaon, Police Station- Mizahri, District- Muzaffarpur.
 12. Daulath Kumar, Son of Late Doman Ram, Resident of Village- Selahpur, Police Station- Aarju, District- Muzaffarpur.
 13. Kameshwar Ram, Son of Bhikhu Ram, resident of Village- Srirampur, Police Station- Kathaina, District- Muzaffarpur.
 14. Mahendra Ram, Son of Jageshwar Ram, Resident of Village Post- Dumri, Police Station- Musahari, District- Muzaffarpur.
 15. Sushil Paswan, Son of Yogendra Chaudhary, resident of Village- Morisaf, Police Station- Maniari, District- Muzaffarpur.
 16. Jailal Chaudhary @ Jiyalal Chaudhary @ Jialal Shoudhary Son of Yogendra Chaudhary, resident of Village- Morisaf, Police Station- Maniari, District- Muzaffarpur.
 17. Satrugan Paswan, Son of Sri Ramswaroop Paswan, resident of Village Post- Kolhua, District- Muzaffarpur.
 18. Rajkishore Ram, Son of Ram Sundar Ram, resident of Village- Khalilpur, Police Station- Karja, District- Muzaffarpur.
 19. Mahendra Ram No. 2, Son of Late Bisheshwar Ram, resident of Village



Post- Pakohi, Police Station- Karja, District- Muzaffarpur.

20. Radhe Paswan, Son of Gena Paswan, Resident of Village- Sundwara, Police Station- Kurhani, District- Muzaffarpur.
21. Kishun Paswan, Son of Shyam Nr. Paswan, resident of Village Post Office- Karma, Police Station- Kurhani, District- Muzaffarpur.
22. Sanjay Paswan, Son of Baleshwar Paswan, Resident of Village Post Office- Karma, Police Station- Kurhani, District- Muzaffarpur.

... .. Appellant/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Commissioner and Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Old Secretariat, Patna
3. The Board of Revenue through the Secretary Board of Revenue, Government of Bihar Patna.
4. The Commissioner, Tirhut Division, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The Director, Science and Technology Department, Government of Bihar, New Secretariat, Patna.
7. The Deputy Collector, In-charge, Nazarat, Muzaffarpur.
8. Rajesh Khanna, Son of Hira Rajak, resident of Village- Antraulia, Police Station- Sarai, District-Muzaffarpur.
9. Dilip Kumar, Son of Ganaur Baitha, resident of Village- Sundar Sarai, Police Station- Motipur, District- Muzaffarpur.
10. Umesh Kumar Rajak, Son of Ganaur Baitha, resident of Village- Sundar Sarai, Police Station- Motipur, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. T.N. Maitin, Senior Advocate Mr. Kumar Madhurendu, Advocate
For the Respondent/s	:	Mrs. Nutun Sahay, AC to AAG- 12

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-08-2019

Heard learned counsel for the appellants.

2. This appeal had been entertained by us in order to



satisfy ourselves about the status of any application having been moved by the appellants for their empanelment or the existence of their names in any empanelment either in the year 2001 or in 2006. To that effect we passed the following order on 7th January, 2019:

“The finding recorded by the learned Single Judge is that the learned counsel had not been able to demonstrate as to how the appellants claim themselves to be entitled for consideration when they had not applied for empanelment either in the year 2001 or 2006.

Learned counsel for the appellants prays for time to study the matter and take appropriate steps.

Adjourned.”

3. The aforesaid enquiry was necessary as the impugned judgement of the learned Single Judge has been assailed primarily on the ground that the learned Single Judge has not taken notice of the contents of paragraph 16 of the writ petition where the appellants had staked their claim that the appellants/petitioners had applied.

4. The finding recorded by the learned Single Judge as contained in paragraph 9 of the judgement is extracted



hereinunder:

“While assailing the impugned order Annexure-22 series, learned counsel for the petitioners submitted that these petitioners had applied for their empanelment in the year 2001 and the year 2006 as well. However, on query raised by this Court, as to whether this fact has been specifically pleaded in the writ application, learned counsel for the petitioners is unable to show from the averments in the writ application that these petitioners had made application for their empanelment in the year 2001 and 2006. Thus, oral submission of learned counsel for the petitioners cannot be accepted by this Court in absence of a specific pleading and evidence to that effect that too when the Empanelment Committee has categorically found and held that these petitioners had not applied for their empanelment in the year 2001 and 2006, in fact, this Court finds that there is no averment in the writ application assailing the findings of the Empanelment Committee as contained in Annexure-22 of the writ



application. The facts which transpired from the panel prepared in the year 1994 wherein 1066 candidates of one particular class were empanelled, the further fact that these petitioners had not applied for their empanelment in the year 2001 and 2006, and therefore, they lost their continuance, seniority and place in the subsequent panel and yet another fact that out of 33, the 12 candidates were those who had not even submitted their application for empanelment in the year 2011 pursuant to the advertisement are not at all controverted in the pleading of the petitioners.”

5. It is in the said background that we had called upon the learned counsel to assist the Court whereupon an affidavit has been filed by the appellants contending therein that the list of empanelled candidates was maintained and which information has been made available to the learned counsel for the appellants and which establishes that the appellants had been mentioned in the list that was maintained by the respondents.

6. We have gone through the pleadings and we do not find any authenticated version of the said list being available with no explaining coming forward as to why any such



document had not been placed before the learned Single Judge. The learned Single Judge has also taken notice of the contents of Annexure- 22 of the writ petition, namely, the proceedings of the Empanelment Committee as also the findings recorded therein to arrive at the conclusion that the appellants/petitioners had not applied for their empanelment either in the year 2001 and 2006. We do not find any material so as to treat the said documents which are now sought to be produced of any probative value in order to support the stand so taken in paragraph 16 of the original writ petition. Accordingly, the conclusion drawn by the learned Single Judge cannot be faulted with.

7. The appeal lacks merit and is, accordingly, rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Jagdish/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.08.2019
Transmission Date	

