

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15472 of 2019

1. Md. Istab @ Istabali Son of Sham Mohammad Resident of Village- Kishanpur, P.O.- Belwa, P.S.- Sadar Muffasil, District- Purnea.
2. Parmanand Mandal Son of Late Badri Prasad Mandal Resident of Village- Prasadpur, P.O.- Banaili, P.S.- Krityanand Nagar, District- Purnea.
3. Md. Raisuddin Son of Kamruddin Sheikh Resident of Village and P.O.- Barsauni, P.S.- Sadar Purnea, District- Purnea.
4. Baidhnath Ram Son of Gyanchand Ram Resident of Village- Baigna, P.O.- Sahara, P.S.- Krityanand Nagar, District- Purnea.
5. Mohammad Hussain Son of Md. Samsujjama Resident of Village- Belka, P.O.- Dalmalpur Via- Jokihat, P.S.- Amour, District- Purnea.
6. Md. Zakeer Son of Sk Mehruddin Resident of Village- Jhajhiyan, P.O.- Sountha, P.S.- Jalalgarh, District- Purnea.
7. Abul Hasan, Son of Chhedi Hasan Resident of Village- Jiyagachhi, P.O.- Belwa, P.S.- Sadar Muffasil, District- Purnea.
8. Matiur Rahman Son of Late Shahjahan Resident of Village- Devingar, P.O.- Jageli, P.S.- Krityanand Nagar, District- Purnea.
9. Jyotish Chandra Roy Son of Bachcha Lal Harijan @ Bachcha Lal Resident of Village- Khatatoli Mahnaro, P.O.- Dhusmal Hat, P.S.- Angarh Hat, District- Purnea.
10. Md. Shamim Akhatar Son of Farmaddin Resident of Village- Madhuakola, Belka, P.O.- Sahangaon, P.S.- Amour, District- Purnea.
11. Md. Ziaur Rahman Son of Hasibur Rahman Resident of Village- Singhari, P.O.- Piyaji, Block and P.S.- Baisa, District- Purnea.
12. Shiv Shankar Prasad Sah Son of Suryadev Prasad Sah Resident of Village and P.O.- Sadhubaili, P.S.- Kasba, District- Purnea.
13. Kundan Kumar Son of Late Arbind Prasad Mahto Resident of Village- Baniyapatti, P.O.- Bithnauli, P.S.- Krityanand Nagar, District- Purnea.
14. Md. Usman Gani Son of Abdur Rahman Resident of Village and P.O.- Ahalgaon, P.S.- Jalalgarh, District- Purnea.
15. Awadhesh Kumar Roy Son of Ambika Prasad Roy Resident of Village- Majra, P.O.- B.K. Asthan, P.S. and Block- Krityanand Nagar, District- Purnea.
16. Abdul Wahid Son of Late Sheikh Jalil Resident of Village- Majrahi, P.O.- Machchata, Via- Baisi, P.S.- Amour, District- Purnea.
17. Parmeshwar Kumar Roy Son of Late Jainulal Roy Resident of Village- Mahsel, P.O.- Mirpur, P.S.- Rauta, District- Purnea.
18. Omprakash Bishwas Son of Late Manikchand Bishwas Resident of - Karhaili, P.O.- Ekamba, P.S.- Jalalgarh, District- Purnea.
19. Dinesh Kumar Mandal @ Dinesh Mandal Son of Muneshwar Mandal Village- Malhariya, P.O. and P.S.- Kasba, District- Purnea.

... .. Petitioner/s

Versus



1. The State of Bihar Through the Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna.
2. The Principal Secretary Department of Panchayati Raj, Government of Bihar, Patna.
3. The Director Panchayati Raj, Govt. of Bihar, Patna.
4. The District Panchayati Raj Officer Purnea.
5. The District Magistrate Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Respondent/s : Mr. Ajay (Ga5)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 05-08-2019

Heard the learned counsel for the parties.

2. Though the petitioners have approached this Court for a direction to the concerned respondents to appoint them as Panchayat Secretaries against the vacant post of such Panchayat Secretaries in all Panchayats but after some arguments, Mr. Pramod Mishra, learned counsel for the petitioners submits that the petitioners would be satisfied if the representation preferred by them before the Director, Panchayat Raj is disposed of within a specific timeline.

3. It may be noted that the petitioners claim to be working as Dalpaties. The aforesaid statement has been seriously disputed by Mr. Ajay, learned GA-5 who submits



that as on date, no work is being taken of Dalpati from anyone.

4. Under the orders of this Court, in the past, several such Dalpaties were made Panchayat Secretaries as rules with respect to the appointment of Panchayat Secretaries had not been framed. Now the rules have been framed in the year 2011 which is known as Bihar Gram Panchayat (Appointment of Secretaries, Rights and Duties) Rules, 2011. It has also been brought to the notice of this Court that earlier, several such orders have been passed by different benches of this Court directing the concerned respondents to consider the case of such Dalpaties who had applied for becoming Panchayat Secretaries. It may also be pointed out that the post of Panchayat Secretary is a district cadre post and the appointing authority is the District Magistrate of a district. Advertisement for filling up the vacant post of Panchayat Secretaries was issued in the year 2014 for filling up of approximately 3000 posts.



5. The advocates for the parties do not have, at present, any clear instruction about the result of such appointment process *viz.* whether any appointment was made pursuant to such advertisement or that only Dalpaties are being inducted as Panchayat Secretaries. This Court has also been informed by Mr. Ajay that according to his information there is no post of Dalpati in existence today.

6. A Division Bench of this Court in *State of Bihar and Ors. Vs. Subhash Chandra Shukla and Ors.* 2009(4) *PLJR* had the occasion to examine the duties and functions of Dalpati *vis-a-vis* the post of Panchayat Secretary. In the aforesaid case, it was found by the Bench that the duties and functions of Dalpati is only confined to general watch and ward whereas the duties and functions of Panchayat Secretary are vastly different and of wider ambit than Dalpaties. With the promulgation of the rules with respect to appointment, rights and duties of the Panchayat Secretaries, it cannot now be countenanced that Dalpaties



be inducted on such post with such onerous responsibilities.

6. In any view of the matter, many courts have issued direction to the Director of the Panchayat Raj to dispose of such representation of Dalpaties who are desirous of being inducted as Panchayat Secretaries. This Court also, in the past, has passed a direction in such terms with a caveat that there has not been any adjudication of the claim of the petitioners on merits.

7. Under the aforesaid circumstances, this Court deems it appropriate to direct the Director, Panchayati Raj to dispose of such representation of the petitioners in correct perspective after verifying the records, especially whether Dalpaties are still functioning and whether such Dalpaties have a right to be inducted/appointed as Panchayat Secretaries after the promulgation of the rules for their appointment. It is again made clear here that no opinion has been given on the merits of the claim of the petitioners. All that this Court directs is that the



applications be disposed of in correct perspective after looking at the current position of facts with respect to Dalpaties and Panchayat Secretaries.

8. While passing the order, the Director, Panchayati Raj shall also take into account whether the rules of 2011 are being implemented in its letter and spirit and whether persons are being taken work from and are being paid as Dalpaties under the Panchayats. The aforesaid order shall be passed within a period of eight weeks of the receipt/production of a copy of this order. In case the petitioners have not preferred any representation, they are at liberty to make a suitable representation within a period of three weeks.

9. With the aforesaid direction/observation, the writ petition is disposed of.

krishna/-

(Ashutosh Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.08.2019
Transmission Date	

