

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18236 of 2019

1. Indrajit Sahni Son of Rupan Sahni, Resident of Village-P.O.-Sahar Gama (Gandhi Nagar), P.S.-Parihar, District-Sitamarhi.
2. Surya Thakur, Son of Rambriksh Thakur, Resident of Village-Chilra, P.O.-P.S.-Sonbarsa, District-Sitamarhi.
3. Abhirul Ansari Son of Rajul Ansari Resident of Village-Ramnagar, P.O.-Pakriya, P.S.-Parihar, District-Sitamarhi.
4. Satya Narayan Ram Son of Ramautar Ram Resident of Village-Naranga, P.O.-Bela, P.S.-Parihar, District-Sitamarhi.
5. Rampukar Mahto, Son of Ram Swarup Mahto, Resident of Village-Farchahiya, P.O.-Kohwarwa, P.S.-Sonbarsa, District-Sitamarhi.
6. Biltu Paswan Son of Janki Paswan Resident of Village-Kamargama, P.O.-Kishanpur, P.S.-Bathnaha, District-Sitamarhi.
7. Ramesh Choudhary Son of Bilash Baitha, Resident of Village-P.O.-Bhisara, P.S.-Parsauni, District-Sitamarhi.
8. Brijlal Pasad Yadav Son of Ramanugrah Ray, Resident of Village-Bharsadh, P.O.-P.S.-Kanhauli, District-Sitamarhi.
9. Birendra Baitha, Son of Chaturi Baitha, Resident of Village-Begahi Puranwas, P.O.-Bel (Begahi), P.S.-Bairganja, District-Sitamarhi.
10. Birendra Paswan Son of Mahadeo Paswan, Resident of Village-Barahi Hariram, P.O.-Dumri Khurd, P.S.-Mejarganj, District-Sitamarhi.
11. Manindra Kishore Singh Son of Ram Naresh Singh Resident of Village-P.O.-Athri, P.S.-Runni Saidpur, District-Sitamarhi.
12. Krishnandan Yadav Son of Ramautar Yadav Resident of Village-Batrauliya, P.O.-Basantpur Pakri, P.S.-Riga, District-Sitamarhi.
13. Ratneshwar Prasad Yadav Son of Ramnandan Prasad Yadav Resident of Village-Shahpur (Shitalpatti), P.O.-Bagha, P.S.-Bathnaha, District-Sitamarhi.
14. Manoj Kumar Son of Sri Krishna Prasad Resident of Village-Panchayat-Bhup Moro, P.S.-Dumra, District-Sitamarhi.
15. Divesh Kumar Son of Ramnath Prasad, Resident of Village-Panchayat-Babhangama Ramnagra, P.S.-Majorganj, District-Sitamarhi.
16. Raj Kishore Mahto, Son of Achchelal Mahto, Resident of Village-Panchayat-Bhaluaha, P.S.-Sonbarsa, District-Sitamarhi.
17. Jagannath Sah Son of Jitan Sah Resident of Village-Panchayat-Yadupatti, P.S.-Choraut, District-Sitamarhi.
18. Ramashray Ram Son of Bilat Ram, Resident of Village-Panchayat-Akhta, P.S.-Bairganja, District-Sitamarhi.
19. Nand Kishore Ram Son of Jaishi Ram Resident of Village-Panchayat-Pachnaur, P.S.-Belsand, District-Sitamarhi.
20. Chulhai Paswan Son of Hitu Paswan, Resident of Village-Hathsar, P.O.-Basant Patti, P.S.-Purnahiya, District-Sheohar.



... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Government of Panchayati Raj, Government of Bihar, Patna.
2. The Principal Secretary, Department of Panchayati, Raj, Government of Bihar, Patna.
3. The Director, Panchayati Raj, Government of Bihar, Patna.
4. The District Panchayati Raj officer, Sitamarhi.
5. The District Panchayati Raj Officer, Sheohar.
6. The District Magistrate, Sitamarhi.
7. The District Magistrate, Sheohar.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Prafull Chandra Jha, Advocate Mr. Jyoti Prabhakar, Advocate
For the Respondent State:		Mr. Ajay, GA-5 Mr. Pratik Kumar Sinha, AC to GA-V

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 06-09-2019 This writ application has been filed by 20 petitioners seeking direction to the respondent State of Bihar to appoint them on the post of Panchayat Secretary. It is their claim that they have served as *Dalpatis* under Panchayat for several years and in the light of policy decisions taken by the State Government from time to time and various orders issued by this Court, they are entitled to be appointed as Panchayat Secretary.

My attention has been drawn to a Division Bench decision of this Court in case of *State of Bihar and Others Vs. Subhash Chandra Shukla and Others*, reported in 2009(4)



PLJR 569, by Mr. Ajay, learned G.A.-5, to submit that *Dalpatis* cannot claim, as a matter of right, their appointment as Panchayat Secretary. Paragraph 15 of the said judgment reads thus : -

“15.We, however, note the submission of the learned Advocate General that the State Government is promise-bound to appoint 531 Panchayat Secretaries from amongst Dalpatis for the reason that the same is being done in compliance of the orders of the Court which have attained finality. The orders of the learned Single Judges in those writ petitions have not been brought to our notice, let alone those being the subject matter of the present appeal. We are in no position to appreciate the circumstances which persuaded the courts to pass orders to the effect that those petitioners, who were working as Dalpatis, shall be considered for appointment/promotion as Panchayat Sewaks. It is a possible situation, only to illustrate it in a hypothetical manner, that the State Government may have taken the decision to appoint Panchayat Sewak/Panchayat Secretary from amongst Dalpatis to meet the emergent situation on account of the vast number of vacant posts of Panchayat Sewak/Secretary in the State of Bihar.”

My attention has also been drawn to Rule 4 of Bihar Gram Panchayat (Appointment of Secretary, Rights and Duties) Rules, 2011, sub-rule (1) thereof states that there shall be cent-percent direct appointment to the post of Gram Panchayat Secretary. The Rules lay down essential qualification and age limit for appointment to the said post.



In view of the provision under the statutory rules, framed in exercise of power conferred under Section 146 of Bihar Panchayat Raj Act, 2006, providing for direct appointment to the post of Panchayat Secretary, as the only method, the relief, which the petitioners are seeking, cannot be allowed.

I do not find any difficulty in holding that no appointment to the post of Panchayat Secretary could have been made nor can be made after coming into force of 2011 Rules in a manner contrary to the provisions of the Rules.

Learned counsel appearing on behalf of the petitioners has submitted that their cases may be directed to be considered by the authorities, on their representation. He contends that in similar circumstance, this Court by an order, dated 01.05.2019, passed in C.W.J.C. No. 6808 of 2016, has disposed of the writ application with an observation that the petitioner shall be at liberty to approach the Director, Panchayati Raj, Government of Bihar, by filing representation, which shall be disposed of in accordance with law.

In my view, however, there being specific rules framed laying down procedure for appointment against the post of Panchayat Secretaries, relief, which the petitioners are



seeking, cannot be granted.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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