

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1740 of 2020

1. Manoj Kumar Singh S/o- Sri Nawal Kishore Singh, Resident of Mohalla- Maldiyar Tola, Ward No. 13, P.O. and P.S.- Mokama, District- Patna.
2. Satyendra Kumar Singh, S/o- Sri Kailash Singh, Resident of Village- Asharhi, P.O. Kadirganj, P.S.- Nawadah, District- Nawadah.
3. Rajiv Ranjan Prasad, S/o- Sri Kailash Prasad Yadav, Resident of Village and P.O.- Hasanpur, P.S. Madhepura, District- Madhepura.
4. Pankaj Kumar, S/o- Sri Dharendra Prasad Yadav, Resident of Village- Pararia, P.O. and P.S. Madhepura, District- Madhepura.
5. Rajesh Lal Ranjan, S/o- Sri Jaikant Lal Deo, Resident of Village- Bachhi, Via- Anandpur, District- Darbhanga.
6. Birendra Rai, S/o- Sri Chandrika Rai, Resident of Village- Jahangirpur, P.O.- Suhai, Sahpur, District- Chapra, Saran.

... .. Petitioners

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms (consolidation Directorate), Govt. of Bihar, Patna.
3. The Director, Consolidation, Bihar, Budha Marg, Patna.
4. The Joint Director, Consolidation, Headquarter, Budh Marg, Patna.
5. The Dy. Director, Consolidation, Headquarter, Budh Marg, Patna.
6. The Dy. Director, Consolidation, Vaishali at Hajipur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Siya Ram Shahi Ms. Shally Kumari
For the Respondent/s	:	Mr. Rishi Raj Sinha (Sc19) Mr. Akhilesh Kumar Sinha, AC to SC 19

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 20-02-2020 The petitioners have sought quashing of the order dated 7.8.2019 bearing No. 731. The principal Secretary, Revenue and Land Reforms Department has rejected the petitioners, representation claiming regularisation on account of the provisions contained in resolution dated 16.3.2006 bearing Memo No. 639 issued by the General Administration Department, Government of Bihar.

The brief background is that the petitioners served in the



district of Vaishali on Class III posts in the Consolidation Department. All the petitioners were appointed between August 1987 to June 1988.

Petitioners' Counsel submits that in terms of resolution dated 16.3.2006 they were fulfilling requisites for being regularised. The requirements in terms of the resolution dated 16.3.2006 as per interpretation of the Division Bench in the case of ***Ashok Kumar Sharma Vrs. State of Bihar*** is that the petitioners were required to have 240 days of service on daily wages prior to 11.12.1990, that also in the past five years prior to 11.12.1990.

Learned Counsel submits that all the petitioners have discharged their duties till the authorities stopped taking work from them in compliance of the order dated 23.2.1998 (Annexure 12). Petitioners' Counsel submits that they were possessing requisite 240 days within five years period preceding 11.12.1990, Principal Secretary, Revenue and Land Reforms Department could not have deprived the petitioners the benefit of resolution dated 16.3.2006 bearing Memo No. 639.

Learned State Counsel submits that the order of the Principal Secretary dated 7.8.2019 which is impugned in the instant writ proceeding is self explanatory. It is a detailed order. The Assistant Director Consolidation had taken the services of the petitioner. He was not the competent authority. The Assistant Director could not have taken the services of the petitioners without approval of the Director Consolidation. Their entry in the office was without issuing any advertisement, without identifying whether posts were vacant against which they were allowed to work. There was no selection process. Even reservation roster was not complied. There was no merit assessment also. It is in these circumstances that the petitioners' appointment done by the Assistant Director Consolidation had been held to be void *ab initio* under the order dated 23.2.1998 issued by the Director Consolidation, Government



of Bihar, Patna (Annexure 12). Ever since then the petitioners have not performed duties for a single day even as per averments made in the writ petition. The order dated 23.2.1998 has never been set aside in any proceeding.

Upon hearing rival submissions it is observed that the submission of the State Counsel merits consideration. It is not petitioners' case that after declaration dated 23.2.1998 regarding their appointment by the Assistant Director being illegal under Annexure 12, the order has ever been set aside by any court or in any proceeding. The averments made in the writ petition do not disclose any details regarding their appointment being made in compliance with the constitutional provisions contained in Articles 14 and 16 of the Constitution of India. There is no details as to the date on which advertisement was made, what was the requisite qualification laid down therein, number of sanctioned vacant posts for which appointment on daily wages was being done or roster point in respect thereof for making the appointment on daily wages. There is nothing on record to show that there was any order of the Director Consolidation for the appointment of the petitioner on daily wages. There is no details regarding there being compliance with Article 14 at the time of engagement of the petitioners on daily wages. The conclusion that their appointment for the said reasons was void ab initio, as contained in the decision dated 23.2.1998 of the Director Consolidation pursuant to which authorities stopped taking work from the petitioners has also never been set aside.

By a detailed, elaborate and reasoned order dated 07.08.2019 the Principal Secretary has also taken into consideration the fact that earlier engagement of the petitioners was illegal and void ab initio.

The writ petition claiming the relief, which would have effect of perpetuating the petitioners' illegal engagement on daily wages therefore is grossly misconceived.



For the aforesaid reasons, the writ petition is dismissed.

(Madhuresh Prasad, J)

SNkumar/-

U			
---	--	--	--

