

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7760 of 2020

1. Md. Mustakim son of Md. Muntasir resident of Dujra, Muslim Gali, Buddha Colony, P.S.- Buddha Colony, District- Patna, Pin- 800001.
2. Sunil Kumar son of Dev Kumar Ram resident of D- 504, Mundeshwari Enclave, Akashvani Marg, Khajpura, Rukanpura, B.V. College, District- Patna, Pin- 80014.
3. Prem Kumar Chandravanshi son of Nandkishor Singh resident of Anisabad, East Bhikhachak, Chandravanshi Nagar, Gardanibagh, Anisabad, District- Patna, Pin- 800002.
4. Sanjay Chaudhary son of Shri Baleshwar Chaudhary resident of 8, Nima Punpun, Jat Dumri, Dumri, District- Patna, Pin- 804453.
5. Baal Kishun Pandit son of Ram Jatan Pandit resident of Village- Baochachak, Phulwari, District- Patna, Pin- 801505.
6. Ramadhar Singh son of Andhi Singh resident of Rana Bigha, Badh, Hasan Chak, Barh, District- Patna, Pin- 803214.
7. Ram Kumar Singh son of Binda Singh resident of Rana Bigha, Badh, Hasan Chak, Barh, District- Patna, Pin- 803214.
8. Rajendra Prasad Singh son of Jai Narayan Singh resident of Rana Bigha, Badh, Hasan Chak, Barh, District- Patna, Pin- 803214.
9. Giral Prasad son of Sitaram Roy resident of Mojipur, Fatwah, Patna, District- Patna, Pin- 803201.
10. Akhilesh Kumar son of Ram Dahin Rajak resident of Postal Park, Budh Nagar, Road No. 2, District- Patna, Pin- 800001.
11. Sunil Tanti son of Nathun Tanti resident of Gangi Dhobi, Ghoghwa, Sherghati, Pinrasin, District- Gaya, Pin- 824201.
12. Prakash Kumar Singh son of Suresh Singh resident of Patliputra Purani Colony, Boring Road, District- Patna, Pin- 800013.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. Principal Secretary, General Administration Department, Bihar, Patna.
3. State Information Commission, Bihar, Patna through its Secretary.
4. State Information Commissioner, State Information Commission, Bihar, Patna.
5. Secretary, State Information Commission, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Abhinav Srivastava, Adv.
For the State	:	Mr.Nadim Seraj, GP-5
For the SIC	:	Mr. Lalit Kishore, AG
		Mrs. Binita Singh, SC-28



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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

11 16-12-2020 Mr. Lalit Kishore, learned Advocate General appearing on behalf of the State of Bihar has submitted that the dilemma arising out of termination of contractual engagement of these petitioners under the State Information Commission (hereinafter referred to as 'the Commission') with the efflux of time and subsequent letter dated 11.11.2020, issued by the General Administration Department, Government of Bihar (Annexure-N to the counter affidavit filed on behalf do the State of Bihar) addressed to the Commission, permitting the Commission for one-time extension of the contractual engagements of the petitioners, has since been resolved. It has been decided to extend the contractual engagement of the petitioners, except petitioner no. 6 who has attained the age of sixty years, for one more term or till regular appointments against the concerned posts in the Commission are made, whichever is earlier. He has also informed that the process of recruitment for filling the posts on regular basis, in accordance with law, is to begin soon.

In view of the aforesaid statement made by Mr. Lalit Kishore, Mr. Abhinav Srivastava, learned counsel for the



petitioner has argued that if any recruitment process is undertaken by the respondents to fill up the posts, against which the petitioners are working, the petitioners should be given some weightage if they are found otherwise eligible for the posts.

This is to be noted that it is the petitioner's claim that they have been continuously discharging their duties in the Commission on their contractual engagement, which was extended from time to time for last 12-14 years. From August 2020, the respondents have stopped taking their service on termination of their extended contractual engagements. In the said background, the present writ application has been filed seeking direction, *inter alia*, to allow the petitioners to continue as the respondents have not made regular appointment against the vacant sanctioned post. They have also sought for a direction for their absorption in regular establishment of the Commission on the strength of their uninterrupted service for more than ten years.

It was argued on behalf of the petitioners that respondents intend to replace the petitioners with another set of persons on contractual basis, which is impermissible.

The petitioner's claim for absorption in regular establishment of Commission on the ground of continuous



service as contractual employees, in the Court's opinion, is unfounded. The sanctioned posts under the Commission, which is State within the meaning of Article 12 of the Constitution, should be filled up only after following due process of selection strictly in conformity with Articles 14 and 16 of the Constitution of India.

Situated thus, in view of the statement made by Mr. Lalit Kishore, learned Advocate General, no further order need be passed in respect of the petitioner's continuance on contractual basis. The Court expects that consequential orders are issued and steps are taken expeditiously in the said regard.

This application is disposed of, in the facts and circumstances of the case, with the aforesaid observation and direction to the respondents to complete the process of appointment on regular basis within three months from today. In case, the respondents fail to make appointment on regular basis after following due procedure within the time frame fixed in the present order, they shall be under obligation to seek leave of this Court for extension of time, explaining the reason therefor.

(Chakradhari Sharan Singh, J)

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