

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21789 of 2019

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1. Rajesh Kumar Son of Awadh Kishore Singh, Resident of Village- Bishanpur Jichho, P.S. Lodipur, District- Bhagalpur.
 2. Santosh Kumar son of Awadh Kishore Mangal, Resident of Village- Bishanpur Jichho, P.S. Lodipur, District- Bhagalpur.
 3. Subodh Kumar Thakur, Son of Sita Ram Thakur, Resident of Village- Dariyapur, P.S. Sajjour, District- Bhagalpur.
 4. Moti Das, Son of Kisho Das, (Kisto Das), Resident of Village- Baijani, P.S. Jagdishpur, District- Bhagalpur.
 5. Neeraj Kumar Das, Son of Dip Narayan Das, resident of Village- Baijani, P.S. Jagdishpur, District- Bhagalpur.
 6. Raj Kumar Chaudhary, Son of late Prakash Chaudhary, Resident of Village- Parsuramchak, P.S. Anti Chak, Mathurapur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Rural Development Department, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Bhagalpur.
3. The District Magistrate, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kamal Kumar Sinha, Advocate
For the Respondent/s : Mr. Vinay Kirti Singh, G.A. 2

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 08-01-2020 Heard learned counsel for the parties.

2. The matter relates to appointment against Class-IV posts in the District of Bhagalpur on the basis of panel of daily wages employees prepared for the said purpose. The manner, in which the appointments against Class-IV posts are being made in different Districts, in the State of Bihar, has been elaborately dealt with in case of *Kapil Kumar Vs. The State of Bihar and*



Ors. with its analogous cases by a Judgment dated 18.12.2019 passed in Cr. Misc. 18612 of 2019. Paragraphs 28 and 29 of the said Judgment passed in the case read thus:-

“28. Noticing the constitutional provisions and the law as declared by the Supreme Court referred to above, in my opinion, the advertisement to the extent it allows preference under sub-clause (1)(2)(3)(4)(5) and (6) of Clause 7 are held to be illegal, violative of Articles 14 and 16 of the Constitution of India and are struck down accordingly. Though, it may be open for the respondents to allow some reasonable weightage on rationale basis for those having work experience after having been selected through a transparent process of selection, the work experience as daily wage simpliciter cannot itself be the sole/ main criteria for selection and appointment. The respondents are obliged to follow a fair process of selection in accordance with the statutory rules and constitutional mandate. It is noteworthy that though the rules have been framed for selection and appointment against Class-IV (Group-D) posts, no clear and definite process of selection has been laid down, therein. If no transparent, fair and impartial procedure is adopted for judging the inter se merit of the candidates, who have applied in response to the advertisement made, the eligible candidates cannot get a fair chance to compete, which would be violative of the guarantee enshrined



under Article 16 of the Constitution, as held in case of UPSC vs. Girish Jayanti Lal Vaghela (supra).

29. These writ applications are accordingly disposed of with specific direction to the respondents, particularly, the Additional Chief Secretary/ Principal Secretary, General Administration Department, Government of Bihar; Commissioner, Madadh Division, Gaya and the District Magistrate, Gaya to ensure that the process of selection through the advertisement in question is completed by adopting a fair procedure. In my opinion, holding of written examination of the candidates who have applied against the said advertisement would be a fair procedure for preparation of merit-list, in the absence of any provision in the Rules. This, in my opinion, would ensure transparency in the process of selection. Since the advertisement was issued more than six years ago, the respondents are directed to conclude the process of selection and appointment against such posts, which were available on the date of issuance of advertisement, within a period of three months from today. The respondents are further directed to ensure that a fair process of selection, strictly in accordance with statutory rules and in conformity with the mandate of Articles 14 and 16 of the Constitution is undertaken on regular basis, after advertising number of post, so that the persons acquiring eligibility after the



initiation of one selection process have a chance to seek and participate in subsequent selection processes. This practice of fairness in the process of selection for filling up public posts generates faith in the hearts and minds of the citizen in the governance, laws and the Constitution”.

3. This writ application is also disposed of in terms of the said judgment and order.

(Chakradhari Sharan Singh, J)

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