

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23958 of 2019

1. Sumit Kumar Son of late Alakh Niranjana Prasad, Resident of Gautam Nagar, Ward No. 11, P.O. and P.S. and District-Saharsa- 852201
2. Arun Kumar Giri Son of late Mathura Giri, Resident of Asharfi Sah Tola, Ward No. 9, Turkaulia, P.O. and P.S. Turkaulia, District- East Champaran Pin code- 845437.
3. Suraj Kumar Choudhary, Son of Shatrudhan Choudhary, Resident of Village and P.O. Balha, P.S. and District- Supaul, Pin code- 852130
4. Raj Mohan Singh, Son of Raj Kumar Singh, Resident of Village- Harnahi, P.O. Bimwa, P.S. Jagdishpur, District- Bhojpur, Ara, Pin code- 802152
5. Sonu Kumar, Son of Binay Kumar Ram, Resident of Village- Saraiya, Ward No. 4, P.O. and P.S. and District- Gopalganj, Pin code- 841428
6. Sudha Sharma, Daughter of Hanuman Prasad Sharma, Resident of Hotel Sharma, Chhatauni, P.O. and P.S. Motihari (Chhatauni), District East Champaran, 845401
7. Bittu Kumar, Son of Asharfi Prasad, Resident of Village- Sauda Newaji Tola, P.O. Sauda, P.S. Muffasil, District- Saran (Chhapra)- 841301
8. Ajay Kumar Sinha, Son of Umeshwari Prasad Singh, Resident of New Area, Jogiya Bagicha, P.S. Civil Line, District- Gaya, Pin Code- 823001
9. Vikash Vaibhav, Son of Sunil Mishra, Resident of Near Bageshwari Mandir, P.O. Railway Station Gaya, P.S. Delha, District- Gaya- 823002
10. Manoj Kumar, Son of Dhyanu Yadav, Resident of Village- Nima, P.O. Rasiyari, P.S. Ghanshyampur, District- Darbhanga- 847427
11. Pankaj Kumar Thakur, Son of Mahesh Thakur, Resident of Village and P.O.- Rampur, P.S. Rajpur, District- Buxar, 802174
12. Deepak Kumar Chaubey Son of Tribhuvan Narayan Chaubey, resident of Village and P.O. Gosaipur, P.S. Rajpur, District- Buxar- 802174
13. Nisar Ahmed, Son of Mumtaz Ahmad, Resident of Village- Patiyasa, P.O. Mirjapur, P.S. Ahiyapur, District- Muzaffarpur- 843103
14. Anuj Kumar, Son of Nageshwar Prasad , Resident of Ward No. 38, Jai Prakash Nagar, P.S. and P.S. and District- Madhepura.
15. Indradeep Jha, Son of Sharadchand Jha, Resident of Mohalla- M-41, Housing Board Colony, Laheriya Sarai, P.O. and P.S. Laheriya Sarai, District Darbhanga, Pin code- 846001
16. Rishi Raj, Son of Pradeep Kumar Sinha, Resident of Village- Bhelahi 19 Nagar Parishad, P.O. and P.S. and District- Supaul.
17. Sanjeet Kumar Mandal, Son of Ramlakhan Mandal, Resident of Village- Bhagirathpur, P.O. Birsapar, P.S. Sakari, District- Madhubani- 847234
18. Jai Kishore Kumar, Son of Heeralal Manjhi, Resident of Village and P.O. Talimapur, P.S. Jamobazar, District- Siwan, Pin code- 841407
19. Santosh Kumar, Son of Rambharat Singh, Resident of Village and P.O. -Samardiha, P.S. Sasaram, District- Sasaram (Rohtas), Pin code- 821113



20. Karan Kumar Yadav, Son of Jawaharlal Yadav, Resident of Village- Gobindpur, P.O. Chaklaghat, P.S. and District- Kishanganj, Pin code- 855107
21. Mukesh Kumar, Son of Ramayan Rai, Resident of Village- Panchbhidiya, P.O. Jilkabad, P.S. Gadarwa, District- Chhapra(Saran), Pin Code- 841301
22. Abhishek Kumar, Son of Arvind Kumar, Resident of Mohalla- New Karman Tola, Ward No. 38, P.O. and P.S. Nawada, District- Bhojpur, Pin code- 802301
23. Dhiraj Chandra Gautam, Son of Ram Pratap Narayan Singh, Resident of Village- Gausnagar, P.O. Kenar,P.S. Sarmera, District- Nalanda, Pin code- 811101
24. Ravindra Kumar, Son of Bhoganand Mehta, Resident of Village-Jhunnikala, P.O. Gadhiya, Balua, P.S. K Nagar, District- Purnea, Pin code- 854301
25. Niraj Kumar, Son of Kapildeo Jha, Resident of Village and P.O.- Akhtiyarpur, P.S. Sarai Ranjan, District- Samastipur, Pincode- 848127.
26. Shashi Bhushan Kumar, Son of Ram Prakash Sharma, Resident of Village and P.O. Patailiya, P.S. Vibhutipur, District- Samastipur, Pin Code- 848211
27. Abhay Kumar Singh, Son of Ravi Prakash Singh, Resident of Village and P.O.- Shekhopur, P.S. Warsinagar, District- Samastipur, Pin code- 848101
28. Sanjeev Kumar Paswan, Son of Chandradeo Paswan, Resident of Village and P.O.- Dilarpur, P.S. Manihari, District- Katihar, Pincode- 854113
29. Vijay Kumar Son of Mahendra Mahto, Resident of Village- Bagha, P.O. Suhid Nagar, P.S. Town, Ward No. 29, District- Begusarai, Pin code- 851218
30. Munita Kumari, Daughter of Narendra Kumar Singh, Resident of Bhagalpur Tilak Mansingh, New Shivpuri Colony, District- Bhagalpur, Pin Code- 812006
31. Suresh Kumar, Son of Birendra Jha, Resident of Mohalla- Ranjeet Complex, Near S.N. College, District- Bhagalpur, Pin code- 812002
32. Sachin Kumar Singh, Son of Shashi Bhushan Singh, Resident of Village and P.O.-Dumri Bujurg, P.S. Naya Gaon, District- Saran, Pin Code- 841217
33. Nitesh Kumar Verma, Son of Niranjan Kumar Verma, Resident of Village- Khesrayal, P.O. and P.S. Karaskanta, District- Araria, Pin code- 854331
34. Sudhanshu Kumar Verma, Son of Manoj Kumar Verma, Resident of Village and P.O.-Mangalwar, P.S. Bhargawan, District- Araria, Pin code- 854102
35. Saroj Kumar, Son of Nageshwar Thakur, Resident of Village- Masaha, P.O. Koiriya Pipra, P.S. Parihar, District- Sitamarhi, pin code- 843324
36. Raushan Kumar, Son of Angad Kumar Singh, Resident of Village and P.O.- Rupawali, P.S. Rupawali, Via- Bhawanipur, District- Purnea, Pincode- 854204
37. Sanjog Kumar, Son of Janardan Prasad Resident of Mohalla- Bauliya Road, Aadesh Colony, Lane No. 4, District- Sasaram (Rohtas), Pin code- 821115
38. Digvijay Kumar, Son of Munindra Prasad Mishra, Resident of Village- Madhopur, P.O. Panauj, Via- Pusa, District- Darbhanga, Pincode- 847106
39. Ambar Kumar, Son of Shivnandan Singh, Resident of Village and P.O.-



Jethar Jamua, P.S. Amarpur, District- Banka, Pin code- 813101

40. Gurunarayan Singh, Son of Bijendra Singh, Resident of Village- Pawara, P.O. Kudrari, P.S. Chand, District- Kaimur, Bhabhua, Pin code- 821106
41. Sunil Kumar, Son of Raj Kumar Paswan, Resident of Village- Bhadauni, P.O., P.S. and District- Nawada, Pin Code-805110

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agricultural, Government of Bihar, Patna.
2. The Principal Secretary, Department of Agricultural, Government of Bihar, Patna.
3. The Director, Agricultural, Government of Bihar, Patna.
4. The Joint Director (Chemistry) Soil Test Laboratory, Bihar, Patna.
5. The District Agriculture Officer of all Concerned districts.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.
Mr. Pranav Kumar, Adv.

For the Respondent/s : Mr. Tej Pratap Singh, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 14-01-2020 Following are the reliefs which the petitioners are seeking, who are 41 in number :-

“(i) To issue an appropriate writ order direction in the nature of mandamus commanding the respondents to absorb and regularise the service of the petitioners from the date of their appointments under Government of Bihar with all consequential benefits.

(ii) To issue an appropriate writ order direction in the nature of mandamus commanding the respondent to pay the salary against the work done by the



petitioners on the post of Soil analyser (Manav Bal) against the soil tests carried out by them from the period 2017 till today.

(iii) To issue an appropriate writ order direction in the nature of mandamus commanding the respondent to grant the benefit of Employees Provident Fund alongwith other allowances admissible to the government employees of Bihar in terms of letter no. 1607 dated 20.03.2019.

(iv) To issue an appropriate writ order direction in the nature of mandamus commanding the respondents not to disturb the petitioners or take any coercive action during the pendency of this writ application.”

It is the petitioner's case that a scheme was launched in 2017 in order to provide soil health card of the lands in each district of Bihar for the purpose of ascertaining the condition of such lands. In order to implement the said scheme, engagement of soil analyser was proposed and accordingly the petitioners were engaged as soil analysers with issuance of letters dated 30.07.2016 and 18.06.2016.

It transpires that initially their salary was fixed at



the rate of Rs. 7500 per month, which was subsequently enhanced up to Rs. 15,000 per month with the rate of 36 per sample effective from 26.08.2016.

Mr. Y.V. Giri, learned Senior Counsel appearing on behalf of the petitioners has submitted that the petitioners have acquired a right to be regularised and absorbed after having served the department since 2016. He contends that the posts are still vacant, against which they can be regularised.

This is no more in dispute that public posts are to be filled up on regular basis through open advertisement in conformity with Article 14 and 16 of the Constitution of India so as to allow all willing and eligible persons to participate in the process of selection through competition. The direction, which is being sought in the present writ application, cannot be issued for the aforesaid reason.

This application is accordingly dismissed to the extent it relates to the petitioner's claim for their regularisation/ absorption. It goes without saying, however, that they are entitled to receive the emoluments for the work which they have performed. Let the Joint Director, Agriculture (Chemistry) ensure that the petitioners are paid



their wages/ emoluments/ salary which is admissible to them, within a period of two months from the date of receipt/ production of a copy of this order.

(Chakradhari Sharan Singh, J)

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