

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5823 of 2020

1. Abhishek Kumar S/o Shri Birendra Kumar Singh Resident of ward no.-5 new Chowk Bazar, P.S.- Silaw, District- Nalanda.
2. Rakesh Kumar S/o Birje Paswan R/o Village- Chhatiyana, P.S.- Harnaut, District- Nalanda.
3. Priya Kumari D/o Sanjay Kumar Maharaj Resident of Mohalla- Jalalpur, Post- Sohsarai, District- Nalanda, Bihar.
4. Amrit Ranjan Kumar S/o Udho Thakur R/o Village- Alawan, P.O.- Alawan, P.S.- Parwalpur, Dist.- Nalanda.
5. Manish Kumar S/o Anil Kumar Resident of Mohalla- Khandakpur, Patthar Gali, Bihar Sharif, District- Nalanda, Bihar.
6. Dhananjay Kumar S/o Madan Prasad Resident of Dhurgaon, District- Nalanda, Bihar.
7. Sanoj Kumar S/o Ramchandra Prasad Resident of Hafichak, Raitar, District- Nalanda, Bihar.
8. Rajni Kumari D/o Bhola Choudhary Resident of Mogal Kuan, Saraia, Sohsarai, District- Nalanda, Bihar.
9. Raju Kumar S/o Suresh Prasad Resident of Village- Toofanganj, Ward No. -05, Post- Sohsarai, P.S.- Rahua, Imamganj, District- Nalanda, Bihar.
10. Pravin Kumar S/o Naresh Prasad Resident of ward no. 14, Milkipar, Ekanagar Sarai, District- Nalanda, Bihar.
11. Ramesh Shekhar S/o Arjun Prasad Resident of Village- Lodipur, P.o.- Sirnwath, P.S.- Wena, District- Nalanda, Bihar.
12. Rampukar Bharti S/o Rajaram Resident of Village- Bhathiyaar, P.o.- Jodhan Bighan, P.S.- Harnaut, District- Nalanda.
13. Pankaj Kumar S/o Bijendra Prasad Resident Ward No. -42, Neemganj, Near Police Chowki, Bihar Sharif, District- Nalanda, Bihar.
14. Vicky Kumar S/o Arvind Sharma Resident of Bhojpur, Puri, District- Nalanda, Bihar.
15. Deepak Kumar S/o Ravindar Prasad Resident of Village- Chulihari, Post- Noawan, District- Nalanda.
16. Prashant Vidyarthi S/o Arjun Prasad Resident of Mohalla- Sahokhar, P.o.- Sohsarai, District- Nalanda, Bihar.
17. Bhagy Shri Sharma D/o Dinesh Pd. Sharma Resident of Village- Dhapar, Sargaon, Noorsarai, District- Nalanda, Bihar.
18. Gautam Kumar S/o Ranjit Prasad Resident of Okanavo, P.S.- Biharsharif, District- Nalanda, Bihar.
19. Awinash Kumar S/o Yadunandan Prasad Kachariya, Thana- Chandi, District- Nalanda.
20. Vikash Paswan S/o Kaushlendra Kumar Resident of Khairabad, District- Nalanda, Bihar.



21. Ravi Ranjan Kumar S/o Chandrika Prasad R/o Village- Bhat Bigha, P.O.- Juniyar, P.S.- Hilsa, District- Nalanda.
22. Mamta Kumari D/o Vijay Prasad Resident of ward no.-1, Sodih, Gola Par, Post- Sohsarai, Bihar Sharif, District- Nalanda.
23. Pappu Kumar S/o Bal Krishna Prasad Resident of Mansur Nagar Sohsarai, District- Nalanda, Bihar.
24. Akash Kumar S/o Ganauri Mistry Resident of Village- Gobariya, Post- Chandaurya, District- Nalanda, Bihar.
25. Bagish Bhushan S/o Sunil Kumar Resident of Hilsa, Durga Asthan, Hilsa, District- Nalanda, Bihar.
26. Shivam Kumar S/o Binod Singh Resident of Dekpura, Post- Moratalab, District- Nalanda, Bihar.
27. Ashish Kumar Chowdhary S/o Kapildeo Chaudhary Resident of Village and P.O. and P.S. Deepnagar, District- Nalanda, Bihar.
28. Siddarth Chandan S/o Deonandan Prasad Resident of Village - Nanand, P.O. Nanand, P.S. Silao, District- Nalanda.
29. Chandan Kumar S/o Umesh Prasad Resident of Village Barhag, Post- Barhag, P.S. Bind, District- Nalanda, Bihar.
30. Amit Kumar S/o Hari Paswan Resident of Kamaibigha, Anchal- Chandi, District- Nalanda, Bihar.
31. Jitendra Kumar S/o Shrikant Sharma Resident of Jamalpur Kharjama, P.S. Chhabilapur, Goraur, District- Nalanda, Bihar.
32. Sucheta Rani D/o Sudhir Prasad Resident of Village - Jagatnandanpur, Bhandari, District- Nalanda, Bihar.
33. Suraj Kumar S/o Vijay Prasad Resident of Mohalla Baburbanna, Post- Sohsarai, P.S. Rahui, District- Nalanda, Bihar.
34. Prince Kumar S/o Ajay Singh Resident of Bhaisasour Bihar Sharif, District- Nalanda, Bihar.
35. Ankit Kumar S/o Ramashish Prasad Resident of ward 1, P.O. Daniyawan, Paindapur, District- Nalanda, Bihar.
36. Puja Kumari D/o Ashok Kumar Resident of Mohalla- Karunabag Galla Patti Sohsarai, District- Nalanda, Bihar.
37. Avinash Kumar S/o Ami Chand Resident of Asha Nagar, Bihar Sharif, District- Nalanda, Bihar.
38. Shivraj S/o Ajay Kumar Resident of Naisarai, Bihar Sharif, District- Nalanda, Bihar.
39. Komal Kumari D/o Mahesh Prasad Resident of Post- Parwalpur, District- Nalanda, Bihar.
40. Mukesh Kumar S/o Indu Ram Resident of Village- Narsinghpur, Post- Sonsa, P.S. Rahui, Sonsa, District- Nalanda, Bihar.
41. Rikita Kumari D/o Navin Kumar Resident of Village Silao, P.O. Silao, District- Nalanda, Bihar.
42. Bhushan Kumar S/o Vishun Das Resident of Rahui, District- Nalanda, Bihar.



43. Kaushal Kumar S/o Durga Prasad Resident of Village -Aungari, P.O. Aungari, District- Nalanda, Bihar.
44. Pallavi Kumari D/o Ashok Prasad Resident of Rahui, District- Nalanda, Bihar.
45. Dinkar Kumar S/o Paras Prasad Resident of Piparpur, Jiar Asthawan, District- Nalanda, Bihar.
46. Akram Hussain S/o Md. Shahood Resident Alam, Azizghat, District- Nalanda, Bihar.
47. Kundan Rajak S/o Pankaj Rajak Resident of Tufanganj, Post- Sohsarai, Thana- Rahui, Imamganj, District- Nalanda, Bihar.
48. Rakesh Kumar S/o Gauri Shankar Prasad Resident of Village Pathraura, Dola, District- Nalanda, Bihar.
49. Prince Kumar S/o Nawal Mistri Resident of Tikulipar, Hadiyapokhar, District- Nalanda, Bihar.
50. Harsh Raj S/o Ajit Kumar Resident of Ibrahimapur, Anchal- Bind, District- Nalanda, Bihar.
51. Manish Kumar S/o Brahmdeo Prasad Resident of Village Pratappur, P.S. Jamalpur, District- Nalanda, Bihar.
52. Ashish Bhardwaj S/o Rajendra Prasad Resident of Shiv Asthan Colony, Rajgir, District- Nalanda, Bihar.
53. Krishna Murari S/o Ram Sanjeevan Pandit Resident of Raipur Koyal Bigha, P.S.- Tharthari, District- Nalanda, Bihar.
54. Abhishek Kumar S/o Kumar Indra Mohan Misha Resident of P.O. and P.S. and District- Nalanda, Bihar.
55. Guddu Kumar S/o Sadabrish Yadav Resident of Amber Ward No.- 12, Bihar Sharif, District- Nalanda, Bihar.
56. Anmol Kumari W/o Raviranjana Resident of Sohsarai, P.O. and P.S. Sohsarai, District- Nalanda, Bihar.
57. Gauri Shankar Kumar S/o Brijnananda Paswan Resident of Village- Chhatiyana, Chhatiyana, District- Nalanda, Bihar.
58. Akash Kumar S/o Suresh Ram Resident of Village- Amber Tikulipar, P.S.- Biharsharif, District- Nalanda, Bihar.
59. Nitish Kumar S/o Jageshwar Prasad Resident of Village- P.O.- Mahanandpur, P.S.- Deep Nagar, District- Nalanda, Bihar.
60. Prince Raj S/o Jaikant Singh Resident of Village- Mahuri, Panchayat- Noorsarai, District- Nalanda, Bihar.
61. Nitish Kumar S/o Birmani Sao Resident of Ranchi Road, Sonu Singar Store, P.S.- Harnaut, District- Nalanda, Bihar.
62. Manjeet Kumar S/o Niranand Nirala Resident of Opposite Durga Mandir, Village- Kedal, B.I.T. More, P.O.- Neori Vikash, P.S.- Jharkhand, Ranchi.
63. Deepak Kumar S/o Suhambhu Prasad Resident of Village- Arya Samaj Road, P.S.- Hilsa, District- Nalanda, Bihar.
64. Raju Kumar S/o Arjun Thakur Resident of Village- Rahui, P.S.- Rahui,



District- Nalanda, Bihar.

65. Manisha Ranjan D/o Vivek Sao Resident of Village- Chandani Kalali, P.S.- Biharsharif, District- Nalanda, Bihar.
66. Shishupal S/o Kishori Lal Rao Resident of Village- Chaukhandi Hajiapur, P.S.- Biharsharif, District- Nalanda, Bihar.
67. Sumit Kumar S/o Shiv Kumar Prasad Resident of Village- Gilani, P.S.- Barbiga, District- Nalanda, Bihar.
68. Sandeep Kumar S/o Nandkishore Kumar Resident of Village- Habbipur, P.O.- Habbipur, P.S.- Shivanagar, District- Nalanda, Bihar.
69. Navin Kumar S/o Bindeshwar Prasad Resident of Village- Dherwaha, P.O.- Bartipai thana, P.S.- Islampur, District- Nalanda, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, General Administration Department, Government of Bihar, Patna.
2. The Finance Secretary Government of Bihar, Patna.
3. The Principal Secretary Panchayati Raj, Government of Bihar, Patna.
4. The Managing Director Bihar Administration Reforms Mission Society, Government of Bihar, Patna.
5. The Additional Secretary to Government of Bihar Patna.
6. The Additional Director Bihar Administration Reforms Mission Society, Government of Bihar, Patna.
7. The OSD Bihar Administration Reforms Mission Society, Government of Bihar, Patna.
8. The D.M. Nalanda, Bihar.
9. The Managing Director Beltron, Sheikhpura, Patna.
10. The Additional Chief Secretary, General Administration Department, Govt. of Bihar-cum-Mission Director, General Administration Department, Govt. of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Alka Verma, Advocate
For the State	:	Mr. Md.Nadim Seraj (GP-5)
For BELTRON	:	Mr. Girijesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 23-08-2021

The petitioners are seeking quashing of an order dated



23.12.2019, issued by *Bihar Prashashnik Sudhar Mission Society* (in short 'BPSMS') of the General Administration Department, Government of Bihar, whereby and whereunder a decision has been taken to engage executive assistants in various districts for a period of three months by way of an interim measure. During the said period of three months, the engaged executive assistants are required to pass a proficiency test to be organised by Bihar State Electronics Development Corporation Limited (BELTRON). The order further mentions that level of the proficiency test shall be the same as fixed for Data Entry Operator (DEO) of BELTRON. Engagement of executive assistants, who pass the proficiency test, can be extended beyond three months whereas engagement of those who fail shall be terminated with immediate effect, the order states. The order further contemplates that the engaged executive assistants shall have to give an undertaking to the aforesaid effect at the time of their engagement.

2. The petitioners have sought for additional reliefs by filing I.A. No. 01 of 2021, I.A. No. 02 of 2021, I.A. No. 03 of 2021, I.A. No. 04 of 2021 and I.A. No. 05 of 2021 to the following effect :-

“For setting aside the decision taken by BPSM in 26th Shashi Parisad meeting in proceeding no. 8 by which the petitioner had to undergo a



qualifying exam taken by Beltron, failing which their services would automatically come to an end.

For quashing letter no. 948 dated 26.06.2021 issued by BPSM by which the petitioners were to appear in the qualifying exam taken by Beltron and were to be terminated if disqualified and for putting a stay on it during the pendency of the writ application. And further a prayer was made for amending/ reframing part of the prayer no. 1(i) in relation to letter no. 66/stha. Only the conditions laid in clauses 1 to 6 of letter no. 66/stha was meant to be challenged.

For setting aside letter no. 1069 dated 09.07.2021 by which the petitioners were to appear in qualifying exam on 31.07.2021 to be taken by Beltron and to put a stay upon this letter during the pendency of the application.

For a direction to the respondent to take appropriate action against the erring officials who illegally filled the registration form of Beltron on behalf of petitioners by copy pasting their signatures from the old documents.

For a direction to the respondent to not to disturb the services of the petitioners and allow them to give their services in the protection of Cabinet Resolution vide memo no. 12534.”



3. The facts of the case, as disclosed in the writ petition are that the Principal Secretary, *Panchayati Raj* Department, Government of Bihar in his letter dated 28.07.2018, addressed to all the District Magistrates of the State required preparation of panels for engagement of executive assistants at *Panchayat* level for implementing various schemes of Central Government and the State Government. In his subsequent letter dated 01.08.2018, addressed to the District Magistrates the Principal Secretary, *Panchayati Raj* Department made a request to all the District Magistrates to make available one executive assistant for each *Gram Panchayat*. The communication dated 01.08.2018 indicated that the decision to provide executive assistants for each *Panchayat* was taken to enhance the use of information technology in *Gram Panchayat* offices and for effective management of their functioning. Evidently, the executive assistants to be engaged were required to have knowledge of computer.

4. Nalanda Collectorate at Bihar Sharif came out with an advertisement inviting applications for the post of executive assistants, a copy of which has been brought on record by way of Annexure-3 to the writ application. The last date of submission of application was prescribed as 30.09.2018. The petitioners claim



that they qualified in the examination conducted for the selection process pursuant to the said advertisement and their names figure amongst total number of 324 candidates who qualified. It is noted, at this stage, that the fact that in the panel published on 03.06.2019, in which the petitioners' names figured, is not in dispute.

5. It appears that before the petitioners could be engaged after their empanelment, BPSMS came out with an order issued on 31.07.2019 directing that the remaining sanctioned vacant posts of executive assistants in the State of Bihar shall be filled up through BELTRON.

6. It is the petitioners' case that similar selection processes were undertaken for engagement of executive assistants in other districts where, upon empanelment, the persons were engaged before issuance of the said order dated 31.07.2019, issued by BPSMS.

7. The Principal Secretary sent the communication dated 28.08.2019 to the Additional Chief Secretary, General Administration Department, Government of Bihar seemingly referring to the order of BPSMS dated 30.07.2019, whereby it was decided that services of executive assistants shall be made available by BELTRON.



8. Considering the difficulties, which were faced by the said arrangement, the Principal Secretary, Panchayat Raj Department, requested the Additional Chief Secretary, General Administration Department to allow the previous arrangement of making available the services of executive assistants from the panel prepared by district administration. The petitioners rely on the decision taken by the Governing Body of BPSMS in its 24th meeting dated 20.09.2019 wherein it was decided, *inter alia*, that requirement of engaging executive assistants as made available by BELTRON in terms of the earlier order dated 30.07.2019 would not be applicable in respect of the districts where the panel was prepared by the district establishment before issuance of the said order. A copy of the minutes of the meeting dated 20.09.2019 has been brought on record by way of Annexure-9 to the writ application. It is the petitioners' case that the said decision of BPSMS dated 20.09.2019 was not made public for ten days and a decision was taken to take Data Entry Operators through BELTRON.

9. It is evident from the impugned order dated 23.12.2019 that the same has been issued in compliance with the decision taken in 25th meeting of BPSMS held on 13.12.2019 which, as has been noted above, requires, *inter alia*, that the



executive assistants appointed from the panels prepared at the district level shall be initially for a period of three months during which they will have to pass an examination to be held by BELTRON and only those, who pass the examination, can be allowed to continue after three months.

10. The facts asserted in the writ petition as noted above, are not in dispute. Ms. Alka Verma, learned counsel appearing on behalf of the petitioners assailing the impugned order has drawn the Court's attention to a Cabinet resolution No. 12534 dated 17.09.2018 which, according to her, prescribes that services of contractual employees shall be taken till their age of superannuation or till the length of scheme, whichever is earlier, and they can be replaced only by regular appointment. She has vehemently argued that the decision of BPSMS is in violation of the said cabinet resolution dated 17.09.2018. She has argued that the decision of BPSMS, which requires candidates to clear examination to be held by BELTRON as condition precedent for extension of their contractual engagement beyond three months, is not only contrary to the advertisement and the said cabinet resolution, the same is in violation of Articles 14 and 16 of the Constitution of India, inasmuch as, similarly circumstanced persons in other districts have been engaged as executive



assistants without any requirement for them to clear the computer proficiency test.

11. Mr. Md. Nadim Seraj, learned GP-5 representing the State of Bihar has, on the other hand, submitted that considering the requirement of the job it was rightly decided by BPSMS to provide for passing of test equivalent to the test for Data Entry Operator to be conducted by BELTRON. He has relied on a coordinate Bench decision of this Court in case of *Neha Sharma & Ors. vs. The State of Bihar & Ors.* reported in **2017(1) PLJR 431** which had arisen out of a selection process under *Bihar Vikash Mission*, wherein this Court relying on a decision in case of *Yogesh Yadav vs. Union of India & Ors.* reported in **2013(4) PLJR (SC) 121** has approved the selection done by raising the bar and setting certain high standard for selection. Case of Neha Sharma (supra) has been approved by a Division Bench of this Court in its decision reported in **2018(4) PLJR 1012 (Tulika Shekhar vs. The State of Bihar and other analogous cases)**. Reference has also been made to a decision rendered by this Court on 28.06.2021 in CWJC No. 3784 of 2020 (*Dhirendra Kumar Mishra and others vs. The State of Bihar and others*), wherein the plea of the petitioners of that case for not giving effect to the decisions dated 31.07.2019 and



23.12.2019, was not accepted.

12. In reply, Ms. Alka Verma has submitted that the said decisions in case of *Yogesh Yadav* (supra), *Neha Sharma* (supra), *Tulika Shekhar* (supra) and *Dhirendra Kumar Mishra* (supra) have no application in the facts and circumstances of the present case. She has submitted that a case of violation of fundamental right guaranteed under Articles 14 and 16 of the Constitution of India is made out in the present case, as similarly situated executive assistants engaged in districts prior to issuance of the order on 31.07.2019 have not been imposed any condition of passing of examination to be conducted by BELTRON.

13. I have carefully perused the pleadings brought on record and have given my anxious consideration to the rival submissions made on behalf of the parties. It has to be borne in mind that it is settled legal position that inclusion of name in the panel does not given a person any right to be appointed. The policy decision of BPSMS, as reflected in the order issued by the General Administration Department dated 31.07.2019, before the petitioners were actually engaged, cannot be said to be unreasonable, arbitrary, unauthorised or otherwise illegal which requires engagement of executive assistants from the panel made available by BELTRON, which is a Government of Bihar



undertaking and not a private body.

14. It is evident from the materials on record that knowledge in computer is apparently a basic requirement for performance of duties by an executive assistant. Visibly, in the said background, a policy decision appears to have been taken by BPSMS under the General Administration Department, Government of Bihar to engage executive assistants for *Panchayats* on the basis of names made available by BELTRON.

15. It transpires that taking into account the fact that in some districts including in the district of Nalanda panels were prepared pursuant to an advertisement, a decision was taken to engage executive assistants from such panels with the condition that they have to clear an examination to be conducted by BELTRON. The said policy decision has apparently been taken to safeguard the interest of selected candidates on the basis of district level advertisement who could have been otherwise not engaged in view of earlier decision of BPSMS and subsequent order of the General Administration Department dated 31.07.2019. Had there been no decision in the nature of order dated 23.12.2019, the petitioners could not have had any claim for their engagement, only on the basis of inclusion of their names in the panel. The petitioners, unfortunately, are challenging



the decision of BPSMS and the General Administration Department taken in their interest. Requirement of passing of the examination of the standard of Data Entry Operator is apparently in public interest commensurate with the requirement of the post in question.

16. Further challenge to the impugned order and subsequent action on the ground of the same being violative of Articles 14 and 16 of the Constitution is not at all sustainable. No case of discrimination among similarly situated candidates of the selection process in question is made out. The petitioners cannot allege violation of Articles 14 and 16 of the Constitution on the ground that in other districts engagements were made prior to decision of BPSMS/ State Government as contained in the order dated 31.07.2019, since the said engagements were made out different selection processes altogether.

17. This application, in my opinion, has no merit and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2021
Transmission Date	NA

