

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7261 of 2020

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1. Raghvender Kumar Jha (Male) aged about 25 years, Son of Ram Narayan Jha, Resident of Village- Athar, P.S.- Biraul, District- Darbhanga.
 2. Rupak Kumar Singh (Male) aged about 24 years, Son of Raghubeer Singh, Resident of Village- Chamtha, P.S.- Bachwara, District- Begusarai.
 3. Kanchan Kumar, (male) aged about 28 years, Son of Birendra Prasad Shrivastav, Resident of Village/Mohallah- Tajpur, P.S.- Dharampur, District- Samastipur.

... .. Petitioners

Versus

1. The State of Bihar Through Additional Chief Secretary, Administrative Department, Government of Bihar.
2. The Additional Chief Secretary cum Director of Bihar Administrative Reforms Mission Society.
3. Bihar Administrative Reforms Mission Society through Officer on Special Duty (OSD).
4. District Magistrate Muzaffarpur.
5. Deputy Collector (District establishment Branch), Collectrate Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Brisketu Sharan Pandey Ms. Aprajita, Advocates
For the Respondents	:	Mr. Ajay Kumar, AC to GP 4

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 13-01-2021

Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

After hearing the parties on 27.11.2020, this Court
has formulated the following questions:-

“(i) Whether the decision dated
31.07.2019 is retrospective in nature ?

(ii) Whether the decision dated
01.07.2019 has the effect of nullifying the selection



process already completed ?

(iii) Whether the order dated 01.07.2020 adversely affect the life of District Wise Panel prepared already ?”

Learned counsel appearing on behalf of the State submits that in terms of the decision dated 31.07.2019, the respondents have decided to change the selection process and modality of appointment for the post of Executive Assistants and thus, out of 1723 empanelled candidates, those who were offered appointment after 31.07.2019 their services have been dispensed with. He submits that empanelment of any candidates does not create any indefeasible right. He places reliance upon the judgment of the Supreme Court in the case of *Shankarsan Dash vs Union Of India* reported in (AIR 1991 SC 1612).

Mr. Brisketu Sharan Pandey, learned counsel appearing on behalf of the petitioners, submits that once panel was prepared and approved, it was for the purpose of appointment and after preparation of panel, the respondents have appointed petitioner no. 2 which was subsequently cancelled referring the decision dated 31.07.2019. Learned counsel further submits that the petitioners cannot claim indefeasible right but at the same time, the respondents cannot be allowed to make appointment and take a plea that persons



appointed out of the panel have no right to continue on the post.

Considering the totality of the fact, the Court is of the view that the respondents have changed the selection process and take steps for fresh appointment but once they have prepared the panel either they have to exhaust the panel or allow the panel to work during the currency of its life. In the instant case, life of panel was for three years and the petitioner no. 2 was appointed during the currency of panel and as such, the action of the respondents cancelling appointment of petitioner no.2 is bad in law. The submission of Mr. Pandey is well-founded.

Once the respondents have decided to prepare panel and after preparation of panel, approved the panel and fixed the life of panel for three years, in that situation they have the right to take steps for fresh appointment only after exhausting the life of panel but they cannot be allowed to adopt “pick and choose policy” and allow the said panel for appointment of certain persons and after appointment cancel the appointment of petitioner no.2 saying that they have decided to change the modality of appointment and selection procedure.

Considering the aforesaid, the Court is constrained to hold that the action of the respondents in cancelling



appointment of petitioner no. 2 is unsustainable in law. The same is accordingly, quashed. District Magistrate, Muzaffarpur (respondent no 4) is directed to accept joining of petitioner no. 2 forthwith.

So far as petitioner nos. 1 and 3 are concerned, they may represent the authority for consideration and for issuance of appointment letters as they were empanelled in accordance with law and they have a right to consideration for appointment during the currency of the panel against the existing vacancies at the earliest within a period of three months from the date of receipt/production of a copy of this order.

Accordingly, the application stands disposed of.

(Anil Kumar Upadhyay, J)

BT/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.01.2021
Transmission Date	N.A.

