

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1333 of 2019

In

Civil Writ Jurisdiction Case No.18236 of 2019

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1. Indrajit Sahni, son of Rupan Sahni, resident of village and P.O.- Sahar Gama (Gandhi Nagar), P.S.- Parihar, District- Sitamarhi.
 2. Surya Thakur, son of Rambriksh Thakur, resident of village- Chilra, P.O. and P.S.- Sonbarsa, District- Sitamarhi.
 3. Abhirul Ansari, son of Rajul Ansari, Resident of Village-Ramnagar, P.O.- Pakriya, P.S.-Parihar, District-Sitamarhi.
 4. Satya Narayan Ram, son of Ramautar Ram, Resident of Village-Naranga, P.O.-Bela, P.S.-Parihar, District-Sitamarhi.
 5. Rampukar Mahto, son of Ram Swarup Mahto, Resident of Village-Farchahiya, P.O.-Kohwarwa, P.S.-Sonbarsa, District-Sitamarhi.
 6. Biltu Paswan, son of Janki Paswan, Resident of Village-Kamargama, P.O.- Kishanpur, P.S.-Bathnaha, District- Sitamarhi.
 7. Ramesh Choudhary, son of Bilash Baitha, Resident of Village-P.O.-Bhisara, P.S.-Parsauni, District-Sitamarhi.
 8. Brijlal Prasad Yadav, son of Ramanugrah Ray, Resident of Village-Bharsadh, P.O.-P.S.-Kanhauli, District-Sitamarhi.
 9. Birendra Baitha, son of Chaturi Baitha, Resident of Village-Begahi Puranwas, P.O.-Bel (Begahi), P.S.-Bairgania, District-Sitamarhi.
 10. Birendra Paswan, son of Mahadeo Paswan, Resident of Village-Barahi Hariram, P.O.-Dumri Khurd, P.S.-Mejarganj, District-Sitamarhi.
 11. Manindra Kishore Singh, son of Ram naresh Singh, Resident of Village-P.O.-Athri, P.S.-Runni Saidpur, District-Sitamarhi.
 12. Krishnandan Yadav, son of Ramautar Yadav, Resident of Village-Batrauliya, P.O.-Basantpur Pakri, P.S.-Riga, District-Sitamarhi.
 13. Ratneshwar Prasad Yadav, son of Ramnandan Prasad Yadav, Resident of Village-Shahpur (Shitalpatti), P.O.-Bagha, P.S.-Bathnaha, District-Sitamarhi.
 14. Manoj Kumar, son of Sri Krishna Prasad, Resident of Village-Panchayat-Bhup Moro, P.S.-Dumra, District-Sitamarhi.
 15. Divesh Kumar, son of Ramnath Prasad, Residen of Village-Panchayat-Babhangama Ramnagra, P.S.-Majorganj, District-Sitamarhi.
 16. Raj Kishore Mahto, son of Achchelal Mahto, Resident of Village-Panchayat-Bhaluaha, P.S.-Sonbarsa, District-Sitamarhi.
 17. Jagannath Sah, son of Jitan Sah, Resident of Village-Panchayat-Yadupatti, P.S.-Choraut, District-Sitamarhi.
 18. Ramashray Ram, son of Bilat Ram, Resident of Village-Panchayat-Akhta, P.S.-Bairgania, District-Sitamarhi.
 19. Nand Kishore Ram, son of Jaishi Ram, Resident of Village-Panchayat -Pachnaur, P.S.-Belsand, District-Sitamarhi.
 20. Chulhai Paswan son of Hitu Paswan resident of Village- Hathsar, P.O.-



Basant Patti, P.S.- Purnahiya, District- Sheohar.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The Director, Panchayati Raj, Government of Bihar, Patna.
4. The District Panchayati Raj Officer, Sitamarhi.
5. The District Panchayati Raj Officer, Sheohar.
6. The District Magistrate, Sitamarhi.
7. The District Magistrate, Sheohar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pramod Mishra, Advocate
For the Respondent/s : Mr. AC to AG.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 25-02-2021

Heard the parties.

Aggrieved by the judgment and order dated 06.09.2019 passed in C.W.J.C. No.18236/2019 passed by learned Single Judge of this Hon'ble Court dismissing the writ petition, the appellant has preferred this LPA.

Appellants had filed writ petition for direction to the respondent authorities to appoint appellants on the post of Panchayat Secretary for which they are entitled and eligible being Dalpatis in view of policy decision of the State



Government. They have all requisite qualification and eligibility for appointment on the post of Panchayat Secretary.

Briefly stated the facts of the case is that the appellants were appointed as Dalpatis and were discharging their duties. Appellants represented before the State Government and after several rounds of litigation, Government took a policy decision to appoint the Dalpatis on the post of Panchayat Secretary. It is further submitted that under similar circumstances in **C.W.J.C. No.6808 of 2019 (Ramnath Ram and others Vs. The State of Bihar & Ors.)** this Hon'ble Court vide order dated 1.5.2019, directed the Director Panchayati Raj to consider the case of Dalpaties for their appointment on the post of Panchayat Secretary in view of policy decision of the respondent State Government.

Learned Single Judge has taken note of Rule 4 of Bihar Gram Panchayat (Appointment of Secretary, Rights and Duties) Rules, 2011 sub-rule(1) thereof states that there shall be cent-percent direct appointment to the post of Gram Panchayat Secretary. The Rules lay down essential qualification and age limit for appointment on the post of Panchayat Secretary and in view of statutory rules framed in exercise of power conferred under Section 146 of Bihar Panchayat Raj Act, 2006 providing



for direct appointment to the post of Panchayat Secretary and there being no provision in the Rules for Dalpatis being promoted, absorbed, appointed on the post of Panchayat Secretary, courts cannot direct such appointment *dehors* the statutory rule and accordingly, dismissed the writ petition.

This Court does not find any error or infirmity in the order passed by learned Single Judge and, accordingly, this LPA is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.03.2021
Transmission Date	NA

