

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24372 of 2019

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1. Sanjeev Kumar Rawat, Son of Sri Krishna Rawat, Resident of Village and P.O.-Tihiya, P.S.-Khaira, District-Jamui 811305.
 2. Ramchandra Rawat, Son of Sri Kapildev Rawat, Village-Katauna, P.O.-Mallaypur, P.S.-Mallayapur, District-Jamui.
 3. Ranbeer Kumar Rao, Son of Sri Ganesh Prasad Rao, Resident of Village-Katauna, P.O.-Mallaypur, P.S.-Mallayapur, District-Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home Government of Bihar New Secretariat, Patna.
2. The Principal Secretary, Department of Home Government of Bihar New Secretariat, Patna.
3. The Director General of Police Home Guard Sardar Patel Bhawan Baily Road, Patna.
4. The District Magistrate, Jamui.
5. The Superintendant of Police, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra, Advocate
	:	Ms. Manini Jaiswal, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC 8
	:	Mr. Anil Kumar, Advocate, AC to SC 8

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 07-12-2021

In the instant petition, petitioners have prayed for following relief/reliefs:

“(i) For issuing an appropriate writ in the nature of Certiorari quashing the decision taken by the respondent authorities for merging the vacant 24 seats of the District Home Guard, pursuant to the final result published in the Advertisement No. 01 of 2009.

(ii) For consideration of appointment of the petitioners on the post of District Home Guard, in the district of Jamui, who are eligible/ successful candidates in the selection list made by the respondent authorities.



(iii) For any order/orders as you lordships may deem fit and proper in the facts and circumstances of the case.”

The concerned respondent issued advertisement in the year 2009 for recruitment to the post of Home Guard in different districts. The recruitment process is restricted to the respective districts. Petitioners were from Jamui District. 136 posts were notified. Among 136 posts 16 posts were reserved for urban area and 120 posts were for rural area. Final results were notified after one decade from the date of advertisement i.e. in the year 2019. The petitioners were not selected. Hence petitioners were presented the present petition.

Learned counsel for the petitioners submitted that persons who have secured lesser marks have been appointed. One vacancy has been reserved subject to the result of the present petition. It is submitted that classification of vacancies with reference to reservation policy has not been made available as on the date of advertisement in the year 2009. During the process of recruitment on certain clarificatory order like classification of posts have been made with reference to reservation policy. Therefore, the petitioners are entitled to relief sought in the present petition.

Per contra, learned counsel for the State resisted the argument advanced by the petitioner and submitted that the petitioners are not entitled to the relief sought in the present



petition. It is submitted that classification of vacancies read with the roster policy was clarified in issuing orders during the process of selection and appointment were made with reference to the clarificatory order, therefore, the petitioners are not entitled.

Heard learned counsel for the respective parties.

Question for consideration in the present petition is whether petitioners are entitled to selection and appointment to the post of Home Guard pursuant to the advertisement issued in the year 2009 or not? Undisputedly, result for the post of Home Guard was notified in the year 2019. Petitioners were not selected. Thus, the petitioners have approached this Court. Perusal of the record, it is evident that while issuing advertisement in the year 2009 the advertising authority has completely side-tracked the policy of the reservation and so also undertaking classification of post. In other words very vaguely 136 vacancies has been notified in the Jamui District while reserving 16 posts to the urban area and 120 for the rural area without further classification to GM, OBC, EBC, SC/ST etc. During the process of selection by means of a clarificatory order reservation policy has been carried out. In fact, process of selection itself is contrary to the Article 16 and 14 and ancillary provisions to Article 16 of the Constitution. Since at the time of issuance of advertisement there is no classification of vacancies



with reference to GM, OBC, EBC, SC/ST etc. That apart by means of a clarificatory order reservation policy has been taken note of read with the classification of posts. Since only one post is reserved, therefore, petitioners have not questioned the validity of selected candidates and their appointments in the present petition, therefore, only one petitioner could be accommodated against reserved (unfilled) vacancy to the post of Home Guard.

The concerned respondent is hereby directed to take note of merit of each of the petitioners and proceed to consider and appoint more merited person to the post of Home Guard within a period of two months from the date of receipt of this order.

The writ petition allowed in part.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2021
Transmission Date	NA

