

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2548 of 2022

1. Ranjay Kumar Sharma son of Lalbihari Sharma resident of Village- Khajuriya P.O.- Jasauli, P.S.- Kotwa, District- East Champaran, Bihar- 845432.
2. Anshu Kumar Singh son of Santosh Kumar Singh resident of Vill- Dhobdhia, P.O.- Rajabariya, P.S.- Nabinagar, District- Aurangabad.
3. Shailendra Kumar son of Bharat Mahato resident of Village- Jamuawan, P.O.- Tungi, P.S.- Wazirganj, District- Gaya, Bihar- 805129.
4. Chandan Kumar son of Kamaldev Yadav resident of Vill and P.O.- Kathautiya, P.S.- Gurua, District- Gaya, Bihar.
5. Gautam Kumar son of Ramanand Prasad resident of Village- Garhara, P.O.- Garhara, P.S.- Barauni, District- Begusarai, Bihar- 851126.
6. Amit Kumar son of Amrit Sharma resident of Village Lawapur Narayan, P.O.- Mahnar, P.S. Manoharpur, District- Vaishali Bihar- 844506.
7. Afroz Alam son of Abdul Fattah Ansari resident of Village- Dehri Sukahra, P.O.- Thakurai Parasiyan, P.S.- Nasriganj, District- Rohtas, Bihar- 821310.
8. Noor Muhammad Mansuri son of Siddique Mansuri resident of Village- Balutola, P.O.- Jhagruchhak, P.S.- Falka, Ward No.- 17 District- Katihar, Bihar- 854108.
9. Sudhir Kumar son of Mahendra Pandit resident of Hajipur, P.O. and P.S.- Bihar Sharif, District- Nalanda, Bihar.
10. Suman Kumar Jha son of Bacchan Jha resident of Gawahi, P.O.- Chichari Kanungo, P.S.- Rajnagar, District- Madhubani, Bihar.
11. Vijay Kumar son of Phaguni Baitha resident of Vill and P.O.- Basua, P.S.- Aurai, District- Muzaffarpur, Bihar- 843321.
12. Anoj Kumar son of Sidheswar Ram resident of Village- Ranipur, P.O.- Tej Bigha, P.S.- Kako, District- Jehanabad, Bihar- 804420.
13. Rahul Kumar son of Ravindra Prasad resident of Village- Nonhi Garh, P.O.- Nonhi, P.S.- Kako, District- Jehanabad, Bihar.
14. Mithilesh Kumar son of Rajendra Yadav resident of Village- Hasanganj, P.O. and P.S.- Pakribarawan, District- Nawada, Bihar.
15. Vikash Kumar Paswan son of Vijay Ram resident of Village- Khawa Gali, P.O.- Chand Choura, P.S.- Vishnupad/ Civil Lines, District- Gaya, Bihar- 823001.
16. Anish Kumar Singh son of Paras Singh resident of Vill and P.O.- Rampersauna, P.S.- Sathi, District- West Champaran, Bihar- 845453.
17. Amod Kumar son of Dinesh Pawshwan resident of Vill- Tekara Kala Bodhi Bigha, P.O.- Dumariya, Gaya.
18. Adip Raj son of Maho Prasad resident of Vill- Purandi, P.O.- Sughrri, District- Nawada.
19. Vijay Kumar son of Ram Sevak Sada resident of Dahiyar, P.O.- Ranna, P.S.- Hathauri, District- Samastipur, Bihar- 847105.



20. Kaushal Kumar Singh son of Shayamjee Singh resident of Vill and P.O.- Majhariya, P.S.- Industrial Area, Baxaur, District- Baxaur, Bihar- 802116.
21. Pankaj Kumar son of Sanjay Kumar resident of Lari, District- Arwal, Bihar- 804421.
22. Prakash Kumar son of Ashok Sigh resident of Vill- Sahadatpur, P.O.- Sahadatpur, P.S.- Yogapatti, District- West Champaran, Bihar- 845452.
23. Om Prakash Kumar son of Ramesh Prasad resident of Ahirani Tola, Kali Sthan, District- West Champaran, Bihar- 845101.
24. Mritunjay Kumar Tripathi Son of Prabhunath Tripathi resident of Vill- Dhnauta, P.O.- Rukundipur, P.S.- Duranda, District- Shivan.
25. Avinash Kumar son of Jai Prakash Purvay resident of Chhatapur, P.O.- Suratganj, P.S.- Chhatapur, District- Supaul.
26. Harshvardhan Kumar son of Gopal Prasad resident of Vill- Saraiya, P.O.- Aurangabad Saraiya, P.S.- Amjhor, District- Rohatas.
27. Prabhat Kumar Bhaskar son of Suresh Prasad Sah resident of Vill and P.O.- Bishnupur bandey, P.S.- Bhagwanpur, District- Vaishali, Bihar- 844114.
28. Sandeep Kumar son of Mahendra Ravidas resident of Vill- Baraini, P.O. and P.S.- Cherki, District- Gaya.
29. Dharmendra Thakur Son of Bhulan Thakur resident of Dongila, P.O. and P.S.- Bake Bazar, Gaya.
30. Deepak Kumar son of Sitaram Prasad P.O.- Makanpur, P.S.- Warisaliganj, District- Nawada, Bihar- 805130.
31. Suraj Prasad son of Surendra Kumar Rajak resident of Vruna Rasalpur, Kishanpur Yusuf, P.S. and P.O.- Sarairanjan, District- Samastipur.
32. Arun Das son of Atish Das resident of Vill- Milan Pally, P.S. and P.O.- Kishanganj.
33. Gautam Paswan son of Upendra Paswan resident of Vill- Kharalta, P.O.- Kharalta, District- Khagaria, Bihar- 851201.
34. Harendra Kumar Sihasan Patel resident of Ward No. 01, Vill- Manamkhedu, P.S.- Chandauna, District- Darbhanga, Bihar- 847303.
35. Chandan Kumar son of Kapildeo Thakur resident of Vill- Chhotki Aamar, P.O.- Gosaimath, P.S.- Harnout, District- Nalanda, Bihar- 803110.
36. Rahul Kumar son of Binod Kumar Ram resident of Vill and P.O.- Sakla Bazar, P.S.- Karakat Gorari, District- Rohtas.
37. Amarnath Kumar son of Gindu Rajak resident of Ashanagar Sangat Tola, P.O. and P.S.- Sosarai, District- Nalanda, Bihar- 803118.
38. Md. Gulam Hasnain son of late Md. Ismail resident of Samachak, P.O. and P.S.- Barbiga, District- Sheikhpura.
39. Deepak Kumar Pandey son of Dinesh Pandey resident of Vill- Kharjama, P.O.- Barakhurd, P.S.- Noorsrai, District- Nalanda.
40. Shashibhusan Kumar son of Ram Prawesh Prasad resident of Baligaon, P.S.- Rafiganj, District- Aurangabad.
41. Sumit Kumar son of Lalan Prasad resident of Vill and P.S.- Parahhi, P.O. and



District- Sheohar.

42. Ram Pukar Kumar son of Bindeshwar Mahto resident of Anchal Bathnaha, Vill Bishnupur Pitambar, Dist- Sitamarhi.

... .. Petitioner/s

Versus

1. The Bihar Staff Selection Commission through its Secretary, Govt. of Bihar, Veterinary College, Patna.
2. The Chairman, Bihar Staff Selection Commission, Govt. of Bihar, Veterinary College, Patna.
3. The Secretary, Bihar Staff Selection Commission, Govt. of Bihar, Veterinary College, Patna.
4. The State of Bihar through Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
5. The Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 21325 of 2021

Pankaj Kumar Son of Rajiv Ranjan Singh, Resident of Village - Mustafapur, Purab Tola, P.O. - Sonsa, P.S. - Rahui, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Bihar Staff Selection Commission, Veterinary College Campus, Patna through its Chairman.
4. The Chairman, Bihar Staff Selection Commission, Veterinary College Campus, Patna.
5. The Secretary, Bihar Staff Selection Commission, Veterinary College Campus, Patna.
6. The Examination Controller, Bihar Staff Selection Commission, Bihar, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 1131 of 2022



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1. Mukesh Kumar Son of Ram Pravesh Bhagat Resident of Village- Dumari, P.O. and P.S.- Bihta, District- Patna.
 2. Subham Kumar Son of Umesh Chandra Choudhary Resident of Village- Haridaspur, P.O.- Khagaul, P.S.- Rupaspur, District- Patna.
 3. Shashikant Kumar Son of Anil Kumar Resident of Mohalla- Amber Ucchkapar, P.O. and P.S.- BiharSharif, District- Nalanda.
 4. Manish Kumar Son of Raja Ram Kamati Resident of Village- Goth Khutauna, P.O. and P.S.- Khutauna, District- Madhubani.
 5. Manish Kumar Son of Vinod Rajak Resident of Village- Vaishnodham Mandir Barh Bazar, P.O. and P.S.- Barh, District- Patna.
 6. Subhash Chandra Bose Son of Suresh Yadav Resident of Village and P.O.- Ghoswari, P.S.- Bakhtiyarpur, District- Patna.
 7. Amit Kumar Son of Ramesh Prasad Singh Resident of Village- Deendayalpur, P.O.- Kodanda, P.S.- Shahkund, District- Bhagalpur.
 8. Mithilesh Kumar Son of Sagar Paswan Resident of Village- Muftipur, P.O.- Andi, P.S.- Bind, District- Nalanda.
 9. Dipak Kumar Son of Suresh Sah Resident of Village- Allalpatti, P.O.- D.M.C., P.S.- Laheriasarai, District- Darbhanga.
 10. Vishal Kumar Son of Amar Nath Resident of Village- Barikhagaul Chakrdaha More, P.O. and P.S.- Khagaul, District- Patna.
 11. Gaurav Kumar Son of Balram Kumar Resident of Village- Sondhi, P.O.- Sarma, P.S.- Ramgarh Chowk, District- Lakhisarai.
 12. Rajeev Kumar Son of Gopal Mandal Resident of Village- Hazaribag, P.O.- Garhbanaili, P.S.- Kasba, District- Purnea.
 13. Ravi Kumar Son of Ramji Ray Resident of Village- Mainpura, P.O.- Danapur Cantt, P.S.- Danapur, District- Patna.
 14. Krishna Narayan Choudhary Son of Nandan Choudhary Resident of Village and P.O.- Baidyanathpur, P.S.- Rosera, District- Samastipur.
 15. Amarjeet Kumar Son of Baiju Rajak Resident of Village- Achhua, P.O.- Achhua, P.S.- Dulhin Bazar, District- Patna.
 16. Raju Kumar Son of Shambhu Sharma Resident of Village- Kewali, P.O.- Churi, P.S.- Chandauti, District- Gaya.
 17. Praveen Kumar Son of Kamta Kumar Resident of Village- Saidpur Shivala, P.O. and P.S.- Khizersarai, District- Gaya.
 18. Sanjeet Kumar Verma Son of Anand Kumar Resident of Village- Harail, P.O.- Allahaganj, PS- Makhdumpur, District- Jehanabad
 19. Avinash Kumar Son of Laxmi Kumar Resident of Village- Neyam, P.O.- Hayaghat, P.S.- Hayaghat, District- Darbhanga.
 20. Abhinaw Son of Ram Prakash Singh Resident of Village- Dahaur Chak, P.O.- Patariya, P.S.- Karauna, District- Jehanabad.
 21. Sukesh Kumar Son of Umesh Ram Resident of Village- Kewai, P.O.- Jaitpur, P.S.- Chandi, District- Nalanda.



22. Rahul Kumar Son of Vijay Kumar Resident of Village- Jat Dumri, P.O.- Jat Dumri, P.S.- Punpun, District- Patna.
23. Deepak Kumar Son of Sidhnath Sharma Resident of Village- Anauli, P.O. and P.S.- Bhagwanganj, District- Patna.
24. Rajdev Singh Son of Ram Chandar Singh Resident of Village and P.O.- Surauli, P.S.- Bibhutipur, District- Samastipur.
25. Nimesh Kumar Son of Shailendra Kumar Resident of Village, P.O. and P.S.- Sarmera, District- Nalanda.
26. Rahul Rajak Son of Tapeshawar Rajak Resident of Village- Hansepur, P.O.- Ope, P.S.- Aungari, District- Nalanda.
27. Kaushal Kumar Saxsena Son of Ajay Manjhi Resident of Village- Kalyanpur, P.O.- Netaul, P.S.- Kadirganj, District- Patna.
28. Shantanu Kumar Son of Ambika Kumar Resident of Village- Hansepur, P.O.- Ope, P.S.- Aungari, District- Nalanda.
29. Jitendra Kumar Son of Chandeshwar Prasad Resident of Village- Baghvar, P.O.- Bahrapur, P.S.- Dhanarua, District- Patna.
30. Vikash Paswan Son of Ramcharan Paswan Resident of Village- Sarwahanpur, P.O.- Bankipur, P.S.- Fathuha, District- Patna.
31. Amit Kumar Son of Arun Singh Resident of Village- Karjan, P.O.- Karjan, P.S.- Athmalgola, District- Patna.
32. Rakesh Kumar Son of Jagarnath Pandit Resident of Village- Danara, P.O.- Daulatpur, P.S.- Bhagwanganj, District- Patna.
33. Nadir Son of Muslim Resident of Village and P.O.- Bhui, P.S.- Silao, District- Nalanda.
34. Karmvir Kumar Son of Rajkumar Prasad Singh Resident of Village and P.O.- Bilari, P.S.- Katrisarai, District- Nalanda.
35. Pintu Kumar Son of Ramashish Das Resident of Village- Ajaynagar, P.O.- Chhatiyana, P.S.- Makhdumpur, District- Jehanabad.
36. Halendra Kumar Son of Anil Paswan Resident of Village- Umednagar, P.O. and P.S.- Deepnagar, District- Nalanda.
37. Munna Kumar Son of Santosh Rajak Resident of Village- Suryapura, P.O.- Karjan, P.S. Athmalgola, District- Patna.
38. Vivek Kumar Son of Vinod Yadav Resident of Village- Lakhanchano, P.O.- Mokamaghat, P.S.- Mokama, District- Patna.
39. Nikhil Kumar Son of Ganauri Rajak Resident of Mohalla- Arfabad Colony, Gai Ghat, P.S.- Alam Ganj, District- Patna.
40. Gyan Ranjan Son of Sitaram Das Resident of Village- Chaudhary Tola Ward No. 12, P.O. and P.S.- Kahalgaon, District- Bhagalpur.
41. Dhananjay Kumar Son of Ramashish Ram Resident of Village- Gaddopur, P.O.- Fakharpur, P.S.- Karpi, District- Arwal.
42. Laldev Das Son of Pun Das Resident of Village- Menka, P.O.- Pananiya, P.S.- Imamganj, District- Gaya.
43. Prabhat Kumar Son of Krit Ram Resident of Village- Raghunandan Bigha,



- P.O.- Kunda, P.S.- Mufasil, District- Aurangabad.
44. Sanjeet Kumar Son of Lalan Singh Resident of Village- Bhatan Bigha, P.O.- Munjhar, P.S.- Huspura, District- Aurangabad.
 45. Sharvan Kumar Son of Basudeo Mandal Resident of Village- Mahadewapur, P.O.- Ghogha, P.S.- Sanhoula, District- Bhagalpur.
 46. Sharvan Raj Son of Bijen Prasad Sharma Resident of Village- Mahamdabad, P.O.- Mirjanhat, P.S.- Mojahidpur, District- Bhagalpur.
 47. Manish Kumar Son of Sanjay Kumar Yadav Resident of Village- Parihar, P.O.- Rahamandih, P.S.- Dhoraiya, District- Banka.
 48. Dhrub Ranjan Kumar Singh Son of Pawan Prasad Singh Resident of Village and P.O.- Bishnupur, P.S.- Rajoun, District- Banka.
 49. Jitendra Kumar Son of Yogendra Vishwakarma Resident of Village- Mallahachak More, P.O. and P.S.- Jehanabad, District- Jehanabad.
 50. Mukesh Kumar Mandal Son of Chalittar Mandal Resident of Village- Nautolia Milki, P.O.- Makha Takia, P.S.- Naugachia, District- Bhagalpur.
 51. Dhiraj Kumar Son of Rajeshwar Prasad Resident of Village- Bhadauni, Gaya Road near Shobhia Temple, P.O. and District- Nawada.
 52. Manjay Kumar Son of Suresh Mandal Resident of Village- Ghiya, P.O.- Prashstdih, P.S.- Goradih, District- Bhagalpur.
 53. Sohan Chaudhary Son of Guni Chaudhary Resident of Village- Golakpur, P.O. and P.S.- Golakpur, District- Jehanabad.
 54. Rakesh Kumar Son of Sulendra Mistree Resident of Village- Mahendra Nagar, P.O.- Barah, P.S.- Rani Talab, District- Patna.
 55. Shambhu Rajak Son of Nawalik Rajak Resident of Village- Mobarakpur, P.O.- Majra Madhar, P.S. Ben, District- Nalanda.
 56. Sachin Kumar Chaudhary Son of Ganesh Chaudhary Resident of Village- Bherhariya English, P.O.- Siyarampur, P.S.- Paliganj, District- Patna.
 57. Rajesh Kumar Son of Suwarath Prasad Resident of Village- Mosimpur, P.O.- Narsanda, P.S.- Chandi, District- Nalanda.
 58. Gaurav Kumar Son of Rampravesh Ram Resident of Village, P.O. and P.S.- Anti, District- Gaya.
 59. Dharmendra Kumar Son of Sita Ram Prajapati Resident of Village- Mokhatarpur Saraiya, P.O.- Rajpur, P.S.- Risiyap, District- Aurangabad.
 60. Uttam Kumar Son of Punit Paswan Resident of Village- Bhusbhusiya, P.O.- Chilim, P.S.- Sherghati, District- Gaya.
 61. Mukesh Kumar Son of Rajdeo Mistry Resident of Village, P.O. and P.S.- Kaler, District- Arwal.
 62. Dharmendra Kumar Son of Gyandev Thakur Resident of Village- Karaitnar, P.O.- Samsa, P.S.- Bakhri, District- Begusarai.
 63. Shubham Kumar Singh Son of Kamal Kumar Singh Resident of Village- Maigal Dangi, P.O.- Pathamari, P.S.- Thakurganj, District- Kishanganj.
 64. Rajesh Kumar Son of Janardan Prasad Resident of Village- Janaro, P.O.- Karjara, P.S.- Ben, District- Nalanda.



65. Subodh Kumar Son of Kedar Sharma Resident of Village- Daulta, P.O.- Kerki, P.S.- Konch, District- Gaya.
66. Murari Kumar Son of Ram Narayan Sahu Resident of Village- Shanichara ghat, P.O.- Tetrahi, P.S.- Bithan, District- Samastipur.
67. Pawan Kumar Son of Jagdip Singh Resident of Village- Rakasia, P.O.- Lala Bhadsara, P.S.- Dulhin Bazar, District- Patna.
68. Mukesh Kumar Son of Bhavesh Pandit Resident of Village- Bhagwatchak, P.O.- Naron, Near Kali Mandir, P.S.- Shambhuganj, District- Banka.
69. Mukesh Kumar Son of Ramasharay Paswan Resident of Village- Telmar, P.O. and P.S.- Telmar, District- Nalanda.
70. Gopal Kumar Son of Suresh Prasad Singh Resident of Village- Darvey Bhadaur, P.O. and P.S.- Bhadaur, District- Patna.
71. Sunali Kumari D/o Shambhunath Choudhary Resident of Village- Govindpur, P.O.- Kanhaiyachak, P.S.- Parbatta, District- Khagaria.
72. Bhola Kumar Son of Mahadev Yadav Resident of Village- Barachatti, P.O. and P.S.- Barachatti, District- Gaya.
73. Vikash Kumar Son of Mahendra Baitha Resident of Village- Mewa Bigha, P.O.- Shamsher Nagar, P.S.- Daudnagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The Bihar Staff Selection Commission through its Secretary, Govt. of Bihar, Veterinary College, Patna.
2. The Chairman, Bihar Staff Selection Commission, Govt. of Bihar, Veterinary College, Patna.
3. The Secretary, Bihar Staff Selection Commission, Govt. of Bihar, Veterinary College, Patna.
4. The State of Bihar through Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
5. The Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2548 of 2022)

For the Petitioner/s : Ms. Alka Verma, Adv
For the Respondent/s : Mr. Satyabir Bharti, Adv

(In Civil Writ Jurisdiction Case No. 21325 of 2021)

For the Petitioner/s : Mr. Brisketu Sharan Pandey, Adv
For the Respondent/s : Mr. P. K. Verma (AAG-3)

(In Civil Writ Jurisdiction Case No. 1131 of 2022)

For the Petitioner/s : Mr. Dinu Kumar, Adv



For the Respondent/s : Ms. Ritika Rani, Adv
Mr. S.S. Sundaram, Adv

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 29-09-2022

The writ applications have been filed by the petitioners who apprehended cancellation of their candidature in the process of selection under advertisement number 06060114, being the first Intermediate Level Combined Competitive Examination for appointment of inter-level posts. The writ petition was filed for a declaration that cancellation of their candidature is illegal; and for consequential directions upon the respondent-Commission to declare the petitioners as genuine and successful candidates in the process of selection.

2. The admitted position is that the petitioners emerged successful in the preliminary test and, therefore, were allowed to appear in the main examination followed by counselling, on being successful in the main examination; and physical test/typing/shorthand/measurement for certain posts.

3. It is also not in dispute that the Commission followed a procedure to prevent impersonation in the process of selection. The same involved biometric fingerprint and screening of the candidates at the time of entry into the examination hall for taking the preliminary test and the main



examination. This biometric data was preserved.

4. On 04.12.2021, the Commission notified the list of 14410 candidates successful in the main examination. Instructions were issued to the candidates for counselling on 07.12.2021. It was specifically mentioned that the candidates appearing for counselling would be subjected to biometric fingerprint verification, from the biometric data of the candidate/s taken and preserved at the time of preliminary test and main examination. Only those candidates, whose biometric data matches, were to be allowed for counselling/verification of their certificates. It was also categorically provided that appropriate action would be taken against candidates in whose cases there is a mismatch between the biometric data at the time of counselling with that which had been preserved at the earlier stages.

5. At the time of counselling, biometric mismatch occurred with the biometrics of 187 candidates, including the petitioners. Therefore, they were prevented from participating in verification of their certificates. The authorities also lodged a criminal case bearing S.K Puri P.S Case No. 352 of 2021 under section 419/420 I.P.C read with Section 10 of the Bihar Examination Act against these 187 candidates,



including the petitioners

6. This is the background in which the petitioners have approached this Court by filing the instant writ proceedings.

7. In CWJC No. 2548 of 2022, this Court on 05.04.2022 directed the Commission to communicate the decision of cancellation of the petitioners' candidature. In compliance thereto, the Commission issued an order dated 13.04.2022, from which it is clear that the petitioners' candidature has not been cancelled yet. Their candidature has been made subject to the result of investigation in S.K Puri P.S Case No. 352 of 2021.

8. The petitioners, thereafter, have brought on record a later notice dated 27.06.2022 whereby two of the candidates were provisionally selected, even though they were also accused in S.K. Puri P.S Case No. 352 of 2021 and their names figured along with the petitioners in the earlier order dated 13.04.2022.

9. In view of this development, the counsels representing the petitioners in the three cases have unanimously confined their relief to claiming parity with the two candidates who are beneficiaries of order dated



27.06.2022, reserving their right to legal remedy in respect of the allegations pending in the criminal case/s.

10. The petitioners allege discrimination against the Commission for provisionally selecting 2 out of 187 candidates who are also facing criminal prosecution for biometric mismatch at the time of counselling, in S.K Puri P.S Case No. 352 of 2021; and at the same time, keeping the candidature of remaining 185 candidates including petitioners, subject to result of investigation in the criminal prosecution.

11. The petitioners' counsels have submitted that biometric mismatch in case of the petitioners is nothing but a *bona fide* technical glitch. It is submitted that a biometric mismatch may have occurred due to various other circumstances. The biometric mismatch is not because the petitioners have resorted to any impersonation. It is highly improbable and perverse to think that the petitioners, knowing well that they shall be subjected to biometric verification at the stage of counselling, would go for counselling in place of someone else. It is equally impossible that if the petitioners had used someone to appear for them at the preliminary test or main examination, then they would go themselves for counselling knowing well that they were going to be subjected



to biometric verification at the time of counselling.

12. They have also placed on record various print-outs of the mismatch report to demonstrate that biometric mismatch occurring is either due to technological glitch or because the officer/authority who was recording the biometric data has committed some errors at the time of recording. It is emphatically submitted that the petitioners are *bona fide* candidates. They have proven their mettle by qualifying in preliminary test and main examination, and therefore the allegation at the stage of counselling is clearly unsustainable in fact as well as in law. It is also submitted that in 2nd Graduate Level Combined Examination under advertisement number 07070114 conducted by the same Commission, they had made provisional recommendation in favour of some candidates who were made accused in a criminal case, subject to final outcome of the investigation in Agam Kuan P.S. Case No. 44 of 2017.

13. The learned counsel for the Commission, however, submits that in terms of the instructions contained in the notice dated 07.12.2021 inviting candidates, petitioners have no right to claim for being allowed to participate in counselling and get their certificates verified.

14. Insofar as the two candidates who are



beneficiaries of provisional selection under important notice dated 27.06.2022, the Commission has come out with an explanation that after biometric mismatch occurred, all 187 candidates, including the petitioners were subjected to a second biometric verification on the date of counselling itself. In the second biometric verification, biometric mismatch was not reported for two candidates. Accordingly, a second biometric report was generated for these two persons and it was considered appropriate to allow them for counselling and their result was provisionally published under notice dated 27.06.2022. The remaining candidates did not succeed in second biometric verification process. Therefore, no report was generated for the remaining candidates.

15. This Court gave an opportunity to the counsel for the Commission to verify weather report of the petitioners' second verification process on the date of counselling for the remaining candidates, including the petitioners had been kept digitally stored so that the petitioners could examine the same. The answer after instructions from respondent-Commission is in the negative.

16. The Commission has acknowledged the fact that the first verification on the date of counselling was



incorrect, but only for the two candidates, and has accepted the second verification. It is under such circumstance that those two candidates have been provisionally selected by the Commission by publishing an "Important Notice" dated 27.06.2022, which reads as follows:

"आयोग के आवश्यक सूचना ज्ञापक-2363 / आ०, दिनांक- 26.06.2022 द्वारा वि०सं०-06060114, प्रथम इंटर स्तरीय संयुक्त प्रतियोगिता परीक्षा-2014 हेतु चयनित 11329 अभ्यर्थियों की सूची आयोग के वेबसाइट पर प्रदर्शित की गयी है। प्रदर्शित सूची में अंकित अनुक्रमांक-30009564 एवं 30006447 को औपबधिक रूप से चयनित किया गया है।

अभ्यर्थी अद्यतन सूचना हेतु आयोग के बसाईट <https://bssc.bihar.gov.in> का सत्त अवलोकन करते रहेंगे।"

17. It is also an admitted position that these two persons continue to be accused in the criminal proceedings arising out of S.K Puri P.S Case No. 352 of 2021. Even otherwise it is an admitted position that at present the petitioners' biometric mismatch is only at the stage of first information report.

18. This Court would, therefore, conclude that keeping the petitioners' candidature subject to result of the criminal investigation, while allowing two other similarly situated as the petitioners to be provisionally selected vide



order dated 27.06.2022 is unsustainable. The only ground on which the Commission proposes to sustain keeping of petitioners' candidature subject to result of the criminal investigation, is the fact that their second biometric verification on the date of counselling also failed. Such assertion of the respondent-Commission, however, is not supported by any preserved biometric data showing the result of the second verification process. Whereas in the case of the two candidates who have been provisionally selected, second verification reports in their favour have been preserved.

19. This Court does not appreciate such an approach adopted by the respondent-Commission. If the second verification process undertaken on the date of counselling was with a purpose to re-verify the biometrics, the respondent-Commission was required to preserve the report of the second verification process of all 187 candidates, including petitioners, digitally or by taking print-outs to ensure transparency in the process of second biometric verification. Unfortunately, that has not been done. The Commission thus has failed to maintain transparency in the second biometric verification process on the date of counselling. It would have been a different matter had the Commission brought the report



of the second verification of all the candidates showing that all, but two candidates, have failed in the second biometric verification. Otherwise, there is no basis to support the Commission's stand that the petitioners are not similarly situated and, not entitled to equal treatment in the selection process, with the two candidates who are beneficiaries of the important notice dated 27.06.2022.

20. This Court is thus inclined to treat the petitioners similarly situated as the other two candidates who have been provisionally selected. There is no distinction based on any verifiable material between the two candidates who are beneficiary of important notice dated 27.06.2022, and the instant petitioners. Decision of the respondents is not based on any *intelligible differentia* between the petitioners and the two candidates provisionally selected. Also no purpose would be served by treating the petitioners differently and deny them provisional recommendation, subject to same terms and conditions as contained in important notice dated 27.06.2022.

21. Petitioners are thus entitled to be treated similarly and be provisionally recommended, subject to result of the criminal case. The authorities should issue orders in favor of the petitioners, similar to order dated 27.06.2022



issued in respect of the other two candidates, provisionally recommending the petitioners.

22. The writ petitions stand allowed

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	29.09.2022
Transmission Date	NA

