

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13545 of 2015

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1. Deepak Kumar and Ors S/o Baj Nandan Prasad, Resident of village- Patuana, P.S.- Biharsharif, District- Nalanda
 2. Sakal Deep Kumar S/o Fuleshwar Yadav, Resident of village- Tikulipar, P.S.- Biharsharif, District- Nalanda
 3. Mukesh Kumar S/o Bajo Yadav, Resident of village- Singarghat, P.S.- Sohsarai, District- Nalanda
 4. Aaush Kumar S/o Khelawan Yadav, Resident of village- Patuana, P.S.- Biharsharif, District- Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Home Government of Bihar, Patna
3. The Director General of Police Home Guard, Bihar, Patna null null
4. The Deputy Inspector General of Police, Home Guard, Patna Range, Patna null null
5. The Chairman Home Guard Selection Board-cum-District Magistrate, Nalanda
6. The District Commandant Home Guard, Nalanda
7. The Superintendent of Police, Nalanda
8. The Company Commander Home Guard, Nalanda
9. The District Welfare Officer, Nalanda

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad, Adv.
For the Respondent/s : Mr. Raj Nandan Prasad, SC9

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 20-12-2022 The petitioner apply under the advertisement dated 16.07.2011.

Learned counsel submits that the petitioner participated in the selection process but ultimately appointment letters have not been issued.

Keeping in view the law laid down in **Shankarsan**



Das vs Union of India 1991(3) SSC 47, wherein the Supreme Court held as under:

“It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in State of Haryana v. Subash Chander Marwaha¹, Neelima Shyangla v. State of Haryana², or Jatinder Kumar v. State of Punjab³.”

This Court holds the writ petition to be wholly misconceived, no Right of appointment exist in law. The only Right is considered for appointment admittedly the petitioner has been considered however, final appointment orders have not been issued by the Authorities. Decision not to fill up posts is in exclusive domain of the State and its authorities. Judicial review in this regard would not be maintainable.



Accordingly, the writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 47

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