

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.19 of 2020

1. The Bihar Staff Selection Commission Patna through its Secretary.
2. The Chairman of the Bihar Staff Selection Commission, Patna.
3. The Secretary of the Bihar Staff Selection Commission, Patna.

... .. Petitioner/s

Versus

1. Navnit Kumar Son of Late Bhagwat Prasad Resident of Village- Ratanpura, Police Station- Ishlampur, District- Nalanda, Roll No. 21508391
2. Umesh Prasad Singh Son of Late Bhagwat Singh Resident of Village- Bishunpur Bedauliya, Police Station- Jandaha, District - Vaishali , Roll No. 21509314
3. Bipin Kumar Son of Mathura Prasad Resident of Village- Khakhra, Police Station- Sheikhpura, District- Sheikhpura, Roll No. 21512292
4. Hans Raj Hans Son of Ramsevak Singh Resident of Village- Somnaha Math, Police Station- Pusa, District- Samastipur, Roll No. 21513082
5. Ravindra Kumar Son of Wakil Singh Resident of Village- Rajpur, Police Station- Rajpur, District- Rohtas, Roll No. 21505435
6. Manoj Kumar Son of Ram Badan Chaudhary Resident of Village- Gamhariyan, Police Station- Nokha, District- Rohtas, Roll No. 21512974
7. Dhananjay Kumar Yadav Son of Suresh Yadav Resident of Azad Nagar, Road No. 3, Police Station- Kankarbagh, District Patna, Roll No. 21510343
8. Amit Kumar Son of Ashok Kumar Chakarwari Resident of Village- Ramdiha, Police Station- Rahui, District Nalanda, Roll No. 21510622
9. Manoj Kumar Akela Son of Rajendra Prasad Akela Resident of Village- Nanand, Police Station- Silaw, District Nalanda, Roll No. 21509910
10. Lalan Kumar Son of Mundrika Prasad Yadav Resident of at Jainagar Bari Kawaiga , Police Station- Lakhisarai, District- Lakhisarai, Roll No. 21504710
11. Vijay Kumar Son of Asharphi Ray Resident of Village- Khapura, P.O. Khanpur Pakri, Police Station- Khanpur Pakri, District Vaishali , Roll No. 21511011
12. Anshu Kumar Anand Son of Shiv Narayan Singh Resident of Village- Ratanpur, Police Station- Bariarpur, District Munger, Roll No. 21503758
13. Shashi Bhushan Kumar Son of Madhav Prasad Yadav Resident of Village- Rahi Jagatpur, Police Station- Laxmipur Lalchand, District- Madhepura, Roll No. 21502683
14. Abhishek Prasad Son of Pradeep Kumar Sah Resident of Village- Hafla Ganj, P.O. P.S. Sirnea, District Katihar, Roll No. 21504108



15. Amit Kumar Son of Late Bharat Bhushan Prasad Resident of Village- Jalalpur, Police station- Sohsarai, District Nalanda, Roll No. 21500334
16. Anand Kumar Son of Ram Badan Prasad Resident of Central Revenue Colony, Type-III, Q.No. 49, Police Station- Digha, District Patna, Roll No. 21513795
17. Deepak Kumar Son of Sushil Kumar Yadav Resident of Village- Kushaha , P.O. Kamaldaha, P.S. Kishanpur, District Supaul, Roll No. 21506290
18. Nandan Singh Son of Jawahar Singh Resident of Village- Jamuraha, Police Station- Ramgarh, District Kaimur , Roll No. 21502502
19. Bipu Kumar Prasad Son of Harhangi Prasad Resident of Village- Tiwari Chapra, P.O. P.S. Bhathwa, District Gopalganj, Roll No. 21500029
20. Swran Kiran Kumar Son of Nawal Kishor Prasad Resident of Village- Kewal Bigha, Ghangh, P.O. P.S. Saistapur, District Patna, Roll No. 21501110
21. Ravi Kumar Son of Shankar Lal Sah Resident at Durga Asthan Kasba, Police Station- Kasba, District - Purnea, Roll No. 21502813
22. Nishant Kumar Son of Mathura Prasad Keshri Resident of Village- Madhubani Bazar, Prema Electrical , Police Station- K.Hatt, District- Purnea, East Roll No. 21510378
23. Sanjay Kumar Son of Late Shyam Kishor Singh Resident of Village- Mahathin Tola, P.O. P.S. Baligirwn, District Bhojpur, Roll No. 21504660
24. Suresh Kumar Son of Ganesh Singh Resident of Village- Bhup Bhairo, Police Station- Sitamarhi, District- Sitamarhi, Roll No. 21503865
25. Suresh Giri Son of Late Bindeshwari Giri Resident of Village- Khushara, Police Station- Kalyanpur, District- East Champaran, Roll No. 21510495
26. Chandan Kumar Son of Hiralal Prasad Resident of Mohalla- Pusa Bazar, Pusa, Police Station- Pusa, District Samastipur, 21504788
27. Chandra Shekhar Kumar Son of Bhikhari Mahto Resident of Village- Rajwara Birta, P.O. Musharnia, Via- Sonbarsa, P.S. Musharnia, District Sitamarhi 21510898
28. Kumar Birendra Singh Son of Naval Kishor Singh Resident of Village- Sherpur, P.O. Nehusa, Police Station- Harnaut, District Nalanda, Roll No. 21508055
29. The State of Bihar Through the Director, Agriculture, Bihar, Patna.
30. The Director, Agriculture Department, Government of Bihar, Patna.
31. The Director (Administration)- Cum- Additional Secretary, Department of Agriculture, Patna.
32. The Agriculture Production Commissioner, Bihar, Patna.

... .. Opposite Party/s

with

Miscellaneous Jurisdiction Case No. 1981 of 2019
In
Civil Writ Jurisdiction Case No.779 of 2018



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1. Kumar Gaurav Singh Son of Kaushal Kishore Singh R/o Village-Sahjahanpur, P.S.-Sahjahanpur, District-Patna, Roll No. 21506672
 2. Rakesh Kumar Singh Son of Late Rajendra Prasad R/o Village-Navtolia, Jamalpur Road, P.S.-Kashim Bazar, District-Munger, Roll No. 21511817
 3. Sudhir Kumar S/o Sadhusharan Prasad R/o Village-Samabad, P.S.-Rahui, District-Nalanda, Roll No. 21510431
 4. Rajnikant Saxena S/o Saroj Kumar R/o Village-Gaurav Nagar, P.S.-Parwalpur, District-Nalanda, Roll No. 21505864
 5. Arvind Kumar S/o Gulshan Rai R/o Village-Panchbhiriya, P.S. Garkha, District-Saran at Chapra, Roll No. 21508143
 6. Surya Prakash Nirala S/o Dinesh Prasad R/o Village-Abdalpur, P.S.-Warisaliganj, District-Nawada, Roll No. 21502278

... .. Petitioner/s

Versus

1. The State of Bihar through Sudhir Kumar, the Director, Agriculture, Bihar, Patna
2. Adesh Titarmare the Director, Agriculture Department, Government of Bihar, Patna
3. Prabhu Ram the Director (Administration)-cum-Additional Secretary, Department of Agriculture, Patna
4. Sunil Kumar Singh the Agriculture Production Commissioner, Bihar, Patna
5. The Bihar Staff Selection Commission Patna through its Secretary, namely Om Prakash Pal
6. Ravindra Kumar the Chairman of The Bihar Staff Selection Commission, Patna
7. Om Prakash Pal the Secretary of The Bihar Staff Selection Commission, Patna

... .. Opposite Party/s

with
Miscellaneous Jurisdiction Case No. 1982 of 2019
In
Civil Writ Jurisdiction Case No.1114 of 2018

1. Navnit Kumar Son of Late Bhagwat Prasad Resident of Village- Ratanpura, Police Station- Ishlampur, District- Nalanda, Roll No. 21508391
2. Umesh Prasad Singh Son of Late Bhagwat Singh Resident of Village-Bishunpur Bedauliya, Police Station- Jandaha, District - Vaishali , Roll No. 21509314



3. Dhananjay Kumar Yadav Son of Suresh Yadav Resident of at Azad Nagar, Road No. 3, Police Station- Kankarbag, District Patna, Roll No. 21510343
4. Amit Kumar Son of Ashok Kumar Chakarwanti Resident of Village- Ramdiha, Police Station- Rahui, District Nalanda, Roll No. 21510622
5. Kumar Birendra Singh Son of Naval Kishor Singh Resident of Village- Sherpur, P.O. Nehusa, Police Station- Harnaut, District Nalanda, Roll No. 21508055

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1. The State of Bihar Through Sudhir Kumar, the Director, Agriculture, Bihar, Patna.
2. Adesh Titarmare The Director, Agriculture Department, Government of Bihar, Patna.
3. Prabhu Ram The Director (Administration) -Cum-Additional Secretary, Department of Agriculture, Patna.
4. Sunil Kumar Singh The Agriculture Production Commissioner, Bihar, Patna.
5. The Bihar Staff Selection Commission Patna through its Secretary, namely, Om Prakash Pal.
6. Ravindra Kumar The Chairman of the Bihar Staff Selection Commission, Patna.
7. Om Prakash Pal The Secretary of the Bihar Staff Selection Commission, Patna.

... .. Opposite Party/s

with
CIVIL REVIEW No. 21 of 2020
In
Civil Writ Jurisdiction Case No.779 of 2018

1. The Bihar Staff Selection Commission Patna through its Secretary.
2. The Chairman of the Bihar Staff Selection Commission, Patna.
3. The Secretary of the Bihar Staff Selection Commission, Patna.

... .. Petitioner/s

Versus

1. Kumar Gaurav Singh Son of Kaushal Kishore Singh Resident of Village Sahjahanpur, Police Station Sahjahanpur, District Patna, Roll No. 21506672.
2. Rakesh Kumar Singh Son of Late Rajendra Prasad Resident of Village- Navtolia, Jamalpur Road, Police Station- Kashim Bazar, District- Munger- Roll No. 21511817.



3. Vikash Kumar Son of Umesh Prasad Resident of Raxaul, Police Station Raxaul, District East Champaran, Roll No. 21510979.
4. Sudhir Kumar Son of Sadhusharan Prasad Resident of Village- Samabad, Police Station Rahui, District Nalanda, Ro.. No. 21510431.
5. Shashi Bhushan Singh Son of Shyam Mohan Singh Resident of Village- Sakari, Police Station- Kudra, District- Kaimur, at Bhabhua, Roll No. 21514540.
6. Rajnikant Saxena Son of Saroj Kumar Resident of Village- Gaurav Nagar, Police Station Parwalpur, District Nalanda, Roll No. 21505864.
7. Santosh Kumar Son of Krishnadeo Prasad Singh Resident of Village Pansalwa, Police Station Beldour, District Khagaria, Roll No. 21511091.
8. Abhinandan Kumar Son of Shambhu Prasad Resident of Village Mathiyan, Police Station Lauriya, District West Champaran, Roll No. 21503774.
9. Nitish Kumar Son of Gyan Chand Bhagat Resident of Village- Parwata, Police Station Parwata, District Khagariya, Roll No. 21509148.
10. Chandra Kishor Kumar Son of Suresh Mehta Resident of Village- Depura, Police Station Gwalpara, District Madhepura, Roll No. 21514166.
11. Shyam Babu Kumar Son of Rajendra Prasad Resident of Village- Mushasniya, Police Station- Sonwarsha, District- Sitamarhi, Roll No. 21511662.
12. Vijai Shankar Kumar Son of Shiv Nath Yadav Resident of Village- Telkathu, Police Station M.H. Nagar, Hasanpura, District Siwan, Roll No. 21511298.
13. Arvind Kumar Son of Gulshan Rai Resident of Village- Panchbhiriya, Police Station Garkha, District Saran at Chapra, Roll No. 21508143.
14. Sanjeev Kumar Son of Raj Kumar Sah Resident of Village Maniyarpur, Police Station Barish Nagar, District Samastipur, Roll No. 21500802.
15. Surya Prakash Nirala Son of Dinesh Prasad Resident of Village- Abdalpur, Police Station Warisaliganj, District Nawada, Roll No. 21502278.
16. The State of Bihar.
17. The Director, Agriculture Department, Government of Bihar, Patna.
18. The Director (Administration)-cum-Additional Secretary, Department of Agriculture, Patna.
19. The Agriculture Production Commissioner, Bihar, Patna.

... .. Opposite Party/s

Appearance :

(In CIVIL REVIEW No. 19 of 2020)

For the Petitioner/s : Mr. Satyabir Bharti, Adv.
Mr. Abhishek Anand, Adv.
Ms. Sushmita Sharma, Adv.

For the Opposite Party/s : Mr. D.K. Sinha, Sr. Adv.
Mr. Awanish Nandan Sinha, GP21



(In Miscellaneous Jurisdiction Case No. 1981 of 2019)

For the Petitioner/s : Mr. Ranjan Kumar Singh, Adv.
For the Opposite Party/s : Mr. Awanish Nandan Sinha, GP21
For the BSSC : Mr. Satyabir Bharti, Adv.
Mr. Abhishek Anand, Adv.
Ms. Sushmita Sharma, Adv.

(In Miscellaneous Jurisdiction Case No. 1982 of 2019)

For the Petitioner/s : Mr. Ranjan Kumar Singh, Adv.
For the Opposite Party/s : Mr. Awanish Nandan Sinha, GP21
For the BSSC : Mr. Satyabir Bharti, Adv.
Mr. Abhishek Anand, Adv.
Ms. Sushmita Sharma, Adv.

(In CIVIL REVIEW No. 21 of 2020)

For the Petitioner/s : Mr. Satyabir Bharti, Adv.
Mr. Abhishek Anand, Adv.
Ms. Sushmita Sharma, Adv.
For the Opposite Party/s : Mr. D.K. Sinha, Sr. Adv.
Mr. Awanish Nandan Sinha, GP21

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

21 22-02-2023

Civil Review No. 19 of 2020
With
Civil Review No. 21 of 2020

In both the review applications, the applicant/Bihar Staff Selection Commission seeks review of the common order dated 05.02.2019 passed by this Court in CWJC No. 1114 of 2018 and CWJC No. 779 of 2018 respectively.

Heard Mr. Satyabir Bharti, the learned Advocate for the revisionist / petitioner and Mr. D. K. Sinha,



learned Senior Advocate for the opposite parties.

The opposite parties had filed writ petitions *vide* CWJC No. 1114 of 2018 and CWJC No. 779 of 2018 seeking quashing of District Recommendation List dated 29.12.2017 for the post of Agricultural Co-ordinators in pursuance to the Advertisement No. 02010115 issued and published by the Bihar Staff Selection Commission (hereinafter referred to as "BSSC") in which the name of the writ petitioners all of whom were in the BC category and other similarly situated candidates were not included and left out.

It appears that a requisition for filling up 4391 posts of Agricultural Co-ordinators was sent by the Agricultural Department to the BSSC. Against such requisition, the names of 3600 candidates was recommended by the Commission. Out of the aforementioned numbers of the recommendees, only 3507 number of candidates were ultimately allocated different districts. No recommendation for posting was made for 93 of the recommended candidates by the Commission.



By communication dated 17.04.2018 from the General Administration Department to the Director of Agricultural, Patna, it was intimated that the principles of filling up of Meritorious Reserved Category (hereinafter referred to as 'MRC') is being followed in appointments in the Education Department, which may be adopted in the Agricultural Department as well.

It was further explained by the aforementioned communication that a MRC candidate moves to the unreserved category but, has an option to exercise for remaining in the reserved category only for choice of post and posting. If the option is not exercised by an MRC candidate, the vacancy in the reserved category is increased.

Likewise, if the option is exercised and the migration is to the reserved category, the vacant position in the unreserved category is to be given to the candidates of unreserved category only.

After making known this principle which was uptill now being followed in the Education Department, the



General Administration Department gave further direction to the Agricultural Department to follow the same principle and proceed in accordance with law for filling up the vacancy created.

On the basis of the aforementioned communication, which was presented before this Court, the writ petitions were disposed of by order dated 05.02.2019, directing the Commission that the recommendation be made at the earliest for filling up the vacancy, pursuant to which the appointments could be made against the vacant posts without any unnecessary delay, preferably within a period of three months from the date of receipt / production of a copy of the order.

This order therefore, only directed the Commission to proceed ahead for recommending persons for the post of Agricultural Coordinators for filling up the vacancy having arisen because of the migration or refusal to migrate of MRC candidates.

Such a direction appears to have misconstrued by the Commission to be a direction for recommending the



names of the 93 candidates including the writ petitioners, all of whom belonged to BC category.

Precisely for this reason, the order dated 05.02.2019 was put to appeal *vide* LPA No. 774 of 2019 and 775 of 2019.

The Appellate Court found that it would be rather desirable for the Commission to have the order dated 05.02.2019 reviewed for the needful.

Hence, the present review petitions.

It would be relevant to note that after the aforementioned communication dated 17.04.2018, referred to above (contained in Annexure-3 to the review petition), the Director, Agricultural wrote to the Secretary, Bihar Staff Selection Commission on 31.05.2018 for proceeding ahead and recommending 93 candidates for their appointment and allocation of their respective districts where they would be posted.

There appears to be some miscommunication between the General Administration Department and the Agriculture Department.



The Bihar Staff Selection Commission thereafter *vide* letter dated 16.06.2018 contained in Annexure-5 to the review petition communicated that the merit list published by the Commission included the names of the 93 candidates including the writ petitioners, who could be posted and allocated different districts.

At this stage, the matter was referred to the Advocate General for his legal opinion. The legal opinion of the Advocate General was based on the Constitution Bench decision of the Supreme Court in ***Union of India Vs. Ramesh Ram and Others, (2010) 7 SCC 234***, where the principle and the manner in which MRC candidates are required to be adjusted was explained.

In the aforementioned judgment, which was in connection with the provisions contained in Civil Service Examination Rules, held that a Meritorious Reserved candidate goes to the unreserved category but, for his choice of service, he could exercise the option of remaining in the reserved category. In that event, the vacancy would not arise in the BC category, which otherwise would have



arisen on the migration of the MRC to the unreserved category.

The fallout of the situation, then, was explained that in the event of vacancy created in the unreserved category, that is to be filled by a candidate from the unreserved category only.

This was perhaps the communication of the General Administration Department to the Agricultural Department which was not construed properly.

The BSSC also did not realize that no recommendation could have been made with respect to 93 of the candidates including the writ petitioners / opposite parties in the present review petition and therefore, it communicated to the Agricultural Department that the merit list of the 3600 candidates was already available with the Agricultural Department and the 93 of the persons who were not adjusted could be posted and sent to different districts.

It was only after it was realized that the writ petitioners / opposite parties in the review petition could



not have been accommodated against the BC category as all the vacant position in the BC category had been filled, that hurriedly, an appeal was filed against the order passed on 05.02.2019.

In the case of the Agricultural Co-ordinators, there was a migration of approximately 103 candidates of the BC category, who chose to exercise the option of remaining in the reserved category only.

Thus, the vacant positions were created only in the unreserved category, which could have been offered to candidates of the unreserved category only and not otherwise.

Hence, the requirement of clarification in the order dated 05.02.2019.

Though a review petition has been filed against the order dated 05.02.2019, which can be entertained only if it is demonstrated that there has been discovery of new and important matter of evidence which, even after the exercise of due diligence was not within the knowledge of the petitioner / revisionist or could not be produced by it



at the time when the order was passed or on account of some mistake or an error apparent on face of the record or for any other sufficient reason including prevention of any miscarriage of justice but, in ultimate analysis, the effort of the petitioners is only for a clarification in the order dated 05.02.2019 which is a general order and which does not direct for recommendation of the 93 candidates including the writ petitioners to fill up the vacant position.

The order can simply be construed as a direction to the Commission to proceed with recommending the names of the candidates from the appropriate category for filling up the vacant posts.

Nonetheless, since the order was passed on the writ petition preferred by the writ petitioners, all of whom are of BC category, a danger inheres in the order of being construed as a direction to the Commission to recommend the writ petitioners only.

Under the aforesaid circumstances, this Court deems it appropriate to clarify the order dated 05.02.2019



that the direction to the Commission be not construed as a direction for recommending 93 candidates including the writ petitioners but, a direction to recommend candidates in the appropriate category for filling up the vacant posts in such category.

The order dated 05.02.2019 is clarified/modified to the extent indicated above.

Both the review applications are disposed of.

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With
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In view of the clarification of the order dated 05.02.2019 passed in C.W.J.C. No. 1114 of 2018, both the contempt petitions are also consigned.

No order is required to be passed in such contempt petitions.

The petition stands disposed off accordingly.

(Ashutosh Kumar, J)

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