

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18963 of 2021

1. Rustam Ali, son of Saudagar Ali, resident of Village-Baranaiya Bisa, P.S.-Kuchaikot, District-Gopalganj.
2. Bhrigunath Manjhi, son of Deo Narayan Manjhi, resident of Village-Karmaini Mohaff, P.S.-Kuchaikot, District-Gopalganj.
3. Lalan Kumar Rajak @ Lalan Baitha, son of Shivjee Rajak, resident of Village-Parasa, P.S.-Barauli, District-Gopalganj.
4. Sugriv Ram, son of Moti Ram, resident of Village-Khaoratia, P.S.-Kuchaikot, District-Gopalganj.

... .. Petitioners

Versus

1. The State of Bihar
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Bihar Public Service Commission through its Secretary, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondents

With
Civil Writ Jurisdiction Case No. 19017 of 2021

1. Onkar Nath Mishra, son of Purendra Nath Mishra, resident of Misrabatarha, P.S.-Phulawariya, District-Gopalganj.
2. Rama Shankar Singh, son of Lal Bihari Singh, resident of Ekderawa, P.O.-Jansar, District-Gopalganj.
3. Dinesh Kumar, son of Chaube Parasa, P.S.-Phulwariya, District-Gopalganj.
4. Praduman Kumar Yadav, son of Baiyanath Yadav, resident of Mishra Bandhaura, P.O.-Bijaypur, District-Gopalganj.
5. Harendra Kumar, son of Radheshyam Prasad, resident of Bathua Bazar, P.S.-Phulawariya, District-Gopalganj.
6. Pradeep Kumar, son of Radhashyam Prasad, resident of Bathua Bazar, P.S.-Phulawariya, District-Gopalganj.

... .. Petitioners

Versus

1. The State of Bihar
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Bihar Public Service Commission through its Secretary, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondents



With
Civil Writ Jurisdiction Case No. 19346 of 2021

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1. Ashok Kumar Singh Son of Ramjee Singh Resident of Village - Bathua Bazar, P.S. Phulwariya, District- Gopalganj.
 2. Dinesh Kumar Gupta Son of Ramnath Gupta, Resident of Village - Magahiya, P.S. - Bhore, District- Gopalganj.
 3. Kripashankar Yadav Son of Vishnudev Singh Resident of Village - Durgachak, P.O. - Chhitawana, District- Gopalganj.
 4. Ramjee Prasad Son of Basudeo Prasad Resident of Village and P.O. - Lain Bazar, P.S. - Hathua, District- Gopalganj.
 5. Pramod Kumar Son of Ramashankar Singh Resident of Village - Khadahi Uttar Tola, P.S. - Bhore, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Bihar Public Service Commission, through its Secretary, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondents

With
Civil Writ Jurisdiction Case No. 4647 of 2022

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1. Anamika Kumari Wife of Vikash Kumar, resident of Village- Pyarepur, P.O. and P.S. - Barauli, District - Gopalganj.
 2. Vikash Kumar, Son of Vishwanath Prasad, resident of Village - Pyarepur, P.O. and P.S. - Barauli, District - Gopalganj.
 3. Mohan Sah, Son of Late Dwarika Sah, resident of Village- Hakam, P.S.- Mahammadpur, District - Gopalganj.
 4. Krishna Kumar Yadav, Son of Ram Naresh Yadav, resident of Village - Badila Khas, P.S. - Gopalganj, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Bihar Public Service Commission, through its Secretary, Patna.



5. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondents

With
Civil Writ Jurisdiction Case No. 1632 of 2023

1. Amit Kumar Sinha Son of Shri Akhileshwar Prasad Sinha, resident of Village Hasanpur Mathia, via - Barauli, P.S. - Sidhwalia, District Gopalganj.
2. Kishor Kumar Giri, Son of Shri Prasanath Giri, Village - Bhawani Ganj, P.O. - Garh Manjha, P.S. Manjha, District - Gopalganj.
3. Rajesh Kumar, son of Haridwar Singh, resident of Village - Bhuwali Tola, P.S. - Jodhpur, District - Gopalganj.
4. Mukesh Kumar Ranjan, Son of Late Harihar Prasad, resident of Village - Manjha Garh, Nai Bazar, P.S. Manjha, District - Gopalganj.

... .. Petitioners

Versus

1. The State of Bihar through Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Bihar Public Service Commission, through its Secretary, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 18963 of 2021)

For the Petitioner/s : Mr.Abhinay Raj, Advocate
For the Respondent/s : Mr.Ajay Kumar, AC to GP-4
For the BPSC : Mr. Sanjay Pandey, Advocate
Mr. Nishant Kumar Jha, Advocate

(In Civil Writ Jurisdiction Case No. 19017 of 2021)

For the Petitioner/s : Mr.Abhinay Raj, Advocate
For the Respondent/s : Mr.Saroj Kumar Sharma, AC to AAG-3

(In Civil Writ Jurisdiction Case No. 19346 of 2021)

For the Petitioner/s : Mr.Abhinay Raj, Advocate
For the Respondent/s : Mr.Ruchikar Jha, AC to SC-8
For the BPSC : Mr.Nishant Kumar Jha, Advocate

(In Civil Writ Jurisdiction Case No. 4647 of 2022)

For the Petitioner/s : Mr.Abhinay Raj, Advocate
For the Respondent/s : Mr.Md. Harun Quareshi, AC to SC-1

(In Civil Writ Jurisdiction Case No. 1632 of 2023)

For the Petitioner/s : Mr.Alexander Ashok
For the Respondent/s : Mr.Saroj Kumar Sharma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD



ORAL ORDER

2 22-02-2023 Let the defect be ignored.

2. On the request of learned counsel for the petitioners and learned counsel for the State as also learned counsel for the Bihar Public Service Commission, Bihar, these matters have been taken up together for consideration.

3. Petitioners, in all these writ applications, are seeking a direction to the respondent authorities to appoint them on Class III post in the District of Gopalganj against the Advertisement no. 51 of 1998 issued by the Bihar Public Service Commission, Patna.

4. Learned counsel for the petitioners submits that earlier 14 candidates who had applied under Advertisement No. 51 of 1998 had approached this Court in CWJC No. 7032 of 2007 with a grievance that the earlier notified 60 vacancies of Class III available in the Collectorate, Gopalganj were reduced to 14. It was their grievance that against the other 46 vacancies, which was informed to the BPSC, the District Rural Development Agency (in short “DRDA”) employees were sought to be adjusted by way of compassionate appointment. The learned writ court took a view that the employees of the ‘DRDA’ could not have been adjusted in the Collectorate, Gopalganj either on compassionate ground or otherwise in the



light of the instructions of the government in circular dated 27.04.1995.

5. Learned counsel submits with reference to the order of the learned writ court passed as back as on 24.01.2012 (Annexure '9') that the learned writ court directed the Collector, Gopalganj to seek roster point from the head of Regional Office concerned in regard to the vacancies of different regional offices as informed to the BPSC and the Commission shall make necessary recommendation to the Collector who shall forward the recommendation to the Head of the regional office for issue of appointment letter as early as possible in any case within one month from the date of recommendation.

6. It is further submitted that the State of Bihar preferred a Letters Patent Appeal bearing No. 542 of 2013 (Annexure '13'). The said appeal was allowed vide order dated 03.12.2013. The Hon'ble Division Bench found that the writ petitioners -respondents had unequivocally accepted that they were unsuccessful candidates in the written examination.

7. The writ petitioners then preferred a Special Leave to Appeal (C) No. 5655 of 2014 challenging the judgment and order dated 03.12.2013 in LPA No. 542 of 2013. The orders passed by the Hon'ble Supreme Court in the said Special Leave



to Appeal from time to time have been brought on record as Annexures '14', '15' and '16' to the writ application. Learned counsel submits that before the Hon'ble Supreme Court, the State itself came out with a statement that the writ petitioners except two of them shall be taken in employment as one time measure.

8. Learned counsel submits that the order of the learned writ court is an order in *rem*, therefore these petitioners being similarly situated to those who were petitioners in CWJC No. 2302 of 2012 would be entitled for consideration. It is, however, informed to this Court that before filing these writ petitions these petitioners have not filed any application/representation before the respondents raising their claims.

9. Learned counsel for the State has opposed these writ applications. It is submitted that a bare perusal of the order of the Hon'ble Supreme Court would speak for itself. The said order cannot be taken as precedent as per direction of the Hon'ble Supreme Court. It is further submitted that these petitioners cannot claim themselves similarly situated with those who were agitating their claim by filing the writ application in the year 2007 and in connection with whom the State



Government made a statement before the Hon'ble Supreme Court as is evident from the orders contained in Annexures '14', '15' and '16' to the writ application.

10. Learned counsel for the State submits that the petitioners have filed a completely misconceived application at this stage after about 23 years of the advertisement.

11. This Court has heard learned counsel for the petitioners and the State. The first surprising move which this Court noticed is that as soon as the writ applications were called out, learned counsel for the petitioners placed before this Court a copy of the order dated 04.02.2023 passed in CWJC No. 18097 of 2021 (Amrendra Kumar Singh and Others vs. the State of Bihar and Others) by learned Coordinate Bench of this Court on 04.02.2023. A submission was made that these cases would be covered by the order dated 04.02.2023, therefore a similar order be passed. This Court would reproduce the order dated 04.02.2023 passed in CWJC No. 18097 of 2021 as under :-

“I.A. No. 1/2021

During pendency of the writ petition, I.A. no. 1 of 2021 has been filed praying therein for withdrawal of this petition, so far as petitioner no. 11 is concerned and deletion of name of petitioner no. 11 from the cause title of the present writ petition.

In view thereof, I.A. No. 1 of 2021 is allowed. Let the name of petitioner no. 11, Vijay Kumar Singh, be



deleted, from the cause title of the present case.

Now, the present case remains only with regard to other petitioners with regard to 1 to 10 and 12&13.

In view of the prayer made by learned counsel for the petitioners, this writ petition is disposed of with direction to petitioners to file a detailed representation before District Level Empowered Committee, Gopalganj.

If such representation is filed within a period of eight weeks from today, the same shall be disposed of in accordance with law in the light of the Bihar State Litigation Policy, 2011, and as per direction contained in Special Leave to Appeal (C) No. 5655 of 2014 within a period of 3 months from the date filing of representation.”

12. As this Court found that the order dated 04.02.2023 has been passed directing the petitioners to file a detail representation and then if such representation is filed the same has been ordered to be disposed of in accordance with law in the light of the litigation policy of the State as per direction contained in Special Leave to Appeal (C) No. 5655/2014, this Court curiously called upon learned counsel for the petitioners to place before this Court the orders of the Hon’ble Supreme Court. What transpired from the orders of the Hon’ble Supreme Court may be judged from the three orders which are Annexure ‘14’, ‘15’ and ‘16’ to the writ application. This Court would reproduce those orders as under:-



Annexure - '14'

“On having received instructions Mr. Manish Kumar, learned counsel for the State of Bihar has stated that the petitioners herein would be given appointment on the post for which they had applied against the advertisement.

Let an affidavit in that regard be filed by tomorrow i.e. 29.07.2021 clearly stating the post on which the petitioners are to be appointed.

List on 30.07.2021.

Annexure – '15'

“In compliance of this Court's order dated 28.07.2021, an affidavit has been filed by District Magistrate, Gopalganj, Bihar. On the said date, Mr. Manish, learned counsel for the State of Bihar had, after receiving instructions, clearly stated that the petitioners herein would be given appointment on the post for which they had applied for against the advertisement. It was to be treated as a one time measure, keeping in view the facts and circumstances of the case, where the petitioners had qualified the preliminary examination and the seats advertised were reduced from 66 to 14.

Admittedly, the petitioners had applied considering that there were 60 vacancies. Since after the advertisement, the vacancies were reduced, the number of candidates to qualify the main examination was also reduced.

In the given circumstances, when the matter was being argued on merits, learned counsel for the State had obtained instructions from the State Authorities and a statement was made by the learned counsel for the State on 28.07.2021.

Today, an affidavit has been placed before us, wherein in Paragraph '7', it has been stated that the State shall offer appointment to 14 petitioners on a Class 'III' post



*i.e. Clerk in Collectorate of Gopalganj, as a one time measure, in the facts and circumstances of the present case, within 14 days from the receipt of recommendation. The question of recommendation was not there. In the peculiar facts of the case, the State had agreed to give appointment to the petitioners (who were actually 13 in number and not 14) as a one time measure. Let a specific affidavit be filed by the State by Monday i.e., 02.08.2021 clearly stating that by which date the appointment shall be given to the petitioners on Class 'III' posts.
List on 03.08.2021."*

Annexure - '16'

"In compliance of this Court's order, the learned counsel for the respondents has submitted (which is not disputed by learned counsel for the petitioners) that out of the 13 candidates 10 candidates have furnished the necessary documents and, accordingly, appointment letters have been issued to them and they have already joined. Learned counsel for the petitioners states that one candidate out of the 13 has died and another candidate has taken up a job elsewhere and he is not interested. The only one candidate out of 13 candidates who remains to be appointed is Nagendra Prasad, petitioner no. 8, who did not receive the information within time. Learned counsel has, thus, prayed that he may be granted one week further time to produce the necessary documents before the District Magistrate.

Mr. Manish Kumar, learned counsel appearing for the respondent/State submits that in case the petitioner no. 8 furnishes the necessary documents on or before 15.09.2021 before the District Magistrate, then after necessary verification, the petitioner no. 8 shall also be issued appointment letter. The submission of the learned



counsel for the respondent is recorded.

In view of the aforesaid statement, we do not find it necessary to pass any further orders. The special leave petition stands disposed of accordingly.

As noted in our earlier orders, we reiterate that this order has been passed on the peculiar facts and circumstances of the present case and shall not be treated as precedent.

Pending application(s), if any, stands disposed of.”

13. When this Court called upon learned counsel for the petitioners to say as to whether the orders of the Hon’ble Supreme Court may be read so as to confer any benefit to any other person/candidate, learned counsel for the petitioners does not dispute that in so many words the Hon’ble Supreme Court has recorded the statement made on behalf of the State that it will be only one time measure in respect of those petitioners and in concluding paragraph of the order the Hon’ble Supreme Court reiterated that the order has been passed on the peculiar facts and circumstances of the present case and shall not be treated as precedent.

14. This Court is afraid that in the name of an order/direction of the Hon’ble Supreme Court without placing the same before this Court, an attempt was made by learned counsel for the petitioners to obtain an order directing the respondents to consider their cases under the Bihar Litigation



Policy as per direction contained in the order of the Hon'ble Supreme Court. The fact is that the Hon'ble Supreme Court has not issued any direction.

15. In fact, any such order, if passed by this Court, would be in completely opposed to the spirit of the orders of the Hon'ble Supreme Court. The fact remains that these petitioners have not even made one representation. They have approached this Court directly after 23 years.

16. In the circumstances, this Court is constrained to hold that these are frivolous applications which have wasted the judicial time of this Court, these writ applications are dismissed with cost of Rs. 5000/- (Five Thousand) which will be deposited by the petitioners with the Patna High Court Legal Services Authority within a period of four weeks from today, failing which it will be realized in accordance with law.

(Rajeev Ranjan Prasad, J)

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