

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5798 of 2020

1. Kumar Shambhav Son of Sri Umesh Kumar Resident of Mohalla- Chandpur Bela, P.O. G.P.O., P.S.- Jakkanpur, District- Patna.
2. Narendra Kumar Son of Ram Pravesh Singh Resident of Village- Sikanderpur, PO- Bankipur Machhariawan, P.S.- Fatuha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat Building, Patna.
2. The Bihar Staff Selection Commission Veterinary College Campus, Patna through its Secretary.
3. The Chairman, Bihar Staff Selection Commission, Veterinary College Campus, Patna.
4. The Secretary, Bihar Staff Selection Commission, Veterinary College Campus, Patna.
5. The Secretary, Co-operative Department, Govt. of Bihar, Patna.
6. The Principal Secretary, Planning and Development Department

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar with Ms Ritika Rani, Advts.
For the State	:	Mr. Md. Irshad AC to SC-1
For the BSSC	:	Mr. Satyabir Bharti, Adv.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 18-07-2023

As the very outset, this Court allows the petitioners' counsel to implead the Principal Secretary Planning and Development as Respondent No.6.

2. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the respondent Bihar Staff Selection Commission (for short 'the Commission').

3. On mentioning slip being filed for priority listing, the



matter has been listed today under the heading 'To be Mentioned'.

4. The petitioners participated in the process of selection, pursuant to the Advertisement No. 07070114 (Annexure-1) issued by the Commission for conduct of 2nd Graduate Level Combined Competitive Examination, 2014. By this examination, the Commission was to make recommendation for filling up vacancies in various departments. The petitioners however, were not recommended though others having lesser marks than the petitioners had been recommended for appointment on account of institution of Agam Kuan PS case No. 44 of 2017. The case was in respect of allegation of corrupt practices in the process of selection. The petitioner Nos. 1 and 2 had secured 512 and 516 marks respectively. The petitioners' case is that they are not accused in the criminal case nor their names have appeared in the charge-sheet. They filed the writ petition on coming to learn that candidates having lesser marks than the petitioners have been recommended by the Commission whereas, the petitioners have been left out. Alleging discrimination, they have approached this Court.

5. In view of the order passed earlier on 29-09-2022, Mr. Satyabir Bharti has produced today in these proceedings



recommendation in favour of both the petitioners. The two recommendations are dated 15-07-2023. The recommendation in favour of the petitioner No.1 is bearing No. 2858 issued by the Secretary of the Commission, to Principal Secretary, General Administration Department; whereas, the recommendation of the petitioner No.2 is bearing No. 2859 issued by the Secretary of the Commission, to the Principal Secretary, Planning and Development Department. The relief claimed in the instant writ proceedings have, thus, been allowed by the respondent Commission and pendency of the writ petition would serve no useful purpose.

6. Mr. Dinu Kumar, learned counsel for the petitioners, however, submits that the recommendation has come only after the petitioners have approached this Court by way of instant writ proceedings. He submits that under similar circumstances, though much earlier, when one Vivek Kumar and Anamika Kumari had approached this Court in CWJC Nos. 10857/2019 and 10961/2019, this Court had disposed of the writ application on 18.05.2021 in view of the recommendations being made in favour of those petitioners, but with certain directions, which are being reproduced herein:-

“Considering the aforesaid, both these writ applications are disposed of with a direction to



the Principal Secretary, Cooperative Department, Government of Bihar to forthwith ensure appointment and posting of the petitioners. If appointment and posting of the petitioners are not made within a period of one month from today, petitioners shall be entitled to payment of entire arrears of salary and other allowances from the date similarly circumstanced others have been appointed on the basis of the recommendation of the Bihar Staff Selection Commission in 2016 and arrears shall be borne out from the pocket of the erring officials who kept the petitioners' appointment on hold. If the petitioners are offered appointment within one month from today, petitioners shall be entitled to the benefit of continuity in service, seniority, pay protection except payment of arrears of salary."

7. In view of the recommendation by the Commission, this Court would consider that petitioners also are entitled to similar direction passed in CWJC Nos. 10857/2019 and 10961/2019, extracted above.

8. This Court would, thus, direct the Principal Secretary, General Administration Department (Respondent No.1) and Principal Secretary, Planning and Development Department (Respondent No.6) to forthwith ensure appointment and posting of both these petitioners, within one month from the date of receipt/production of a copy of this order.

9. In case of failure to appoint and post the petitioners accordingly, the same consequences shall follow in the case of these petitioners as contemplated in the order dated 18.05.2021



passed in CWJC No. 10857 of 2019, extracted above.

10. The writ application is allowed in the aforesaid terms.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18/08/2023
Transmission Date	N/A

