

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.312 of 2023

1. Ambalika Kumari Wife of Manoj Kumar Resident of village P.O. - Sirnwar, P.S. Wena, District - Nalanda
2. Md. Afaq Son of Md. Wazid Ali Resident of village - Gaura, P.S. - Kharagpur, District - Munger
3. Ranjeet Pandit Son of Late Pavitra Pandit Resident of village - Samaspur, P.S. - Fatuha, District Patna
4. Rajeshwar Prasad Son of Lae Kishori Prasad Resident of village - Mai, P.S. - Parwalpur, District - Nalanda
5. Sandeep Kumar Son of Nandu Paswan Resident of village - Bardih, P.S. and District - Nalanda

... .. Petitioners

Versus

1. The State of Bihar Through the Principal secretary, Bihar Agricultural Department Govt. of Bihar, Patna.
2. The Agriculture Production Commissioner, Govt. of Bihar, Patna.
3. The Director Agriculture Bihar, Patna.
4. The Director Horticulture Bihar, Patna.
5. The Deputy Director Horticulture (Administration), Bihar, Patna.
6. The Assistant Director Horticulture, Munger.
7. The Assistant Director Horticulture, Nalanda.
8. The Assistant Director Horticulture, Gaya.
9. The Assistant Director Horticulture, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abdul Mannan Khan, Advocate Mr.Md. Najmul Hodda, Advocate
For the Respondent/s	:	Mr.Subodh Kumar Mishra, AC to GP-14

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-02-2023 Heard learned counsel for the petitioners and learned
counsel for the State.

The petitioners, in the present case, is seeking the
following reliefs:

(I) For issuance of a writ of certiorari or any other



appropriate writ order or direction commanding the respondents to give promotion to the petitioners on the post of Block Horticulture Officer as they fulfill all the eligibility criteria for promotion and as many of their juniors and equals have been given promotion.

(ii) For any other relief/reliefs for which the petitioners may be deemed entitled under the facts and circumstances of the case.”

Learned counsel for the petitioners submits that these petitioners have been appointed as Udyan Sevak and they are working on the said post since the date of their joining as disclosed in paragraph ‘4’ of the writ application.

It is submitted that the posts of Horticulture Inspector and Vegetable Extension Workers and Plant Protection Supervisors have been merged together with letter no. 942 15.09.2014 issued by the Director, Horticulture, Bihar, Patna and their posts have been converted into Block Horticulture Officer. It is stated that now there are only two categories of posts namely, Udyan Sevak and Block Horticulture Officer.

It is further submitted that at present the Bihar Agriculture Service Rules, 2015 (hereinafter referred to as the “Rules of 2015”), a copy of which has been enclosed as Annexure ‘2’ to the writ application, has come into force. It is a rule framed under Article 309 of the Constitution of India. This rule governs the selection, promotion and other service



conditions of Bihar Agriculture Subordinate Service, Category – 7 (Udyan).

Learned counsel submits that the post of Block Horticulture Officer is to be filled up to the extent of 33% from amongst the eligible Udyan Sevak. The only condition which is required to be fulfilled by the Udyan Sevaks is that they should be matriculate.

Learned counsel for the petitioners submits that presently 534 Block Horticulture Officers are vacant out of which 176 posts are to be filled up by promotion from the post of Udyan Sevak. It is stated that the respondents have earlier given promotion to one Abhinash Chandra who had joined as Udyan Sevak only in the year 1996.

It is further case of the petitioners that petitioner no. 1 and petitioner no. 3 had earlier moved this Court in CWJC No. 767/2018 which was disposed of vide order dated 15.01.2018 directing the respondent authorities to consider their cases of promotion but despite the said direction of this court, the Director, Horticulture, Bihar vide it's memo no. 1032 dated 09.10.2018 rejected the prayer of petitioner no. 1 and 3 for promotion. In paragraph '14' of the writ application, it is stated that the petitioners have filed application before their respective



immediate controlling officers i.e. the Assistant Horticulture Officer which have been forwarded to the Director, Horticulture but the same is not being considered. It is specifically stated that all the petitioners except petitioner no. 2 have passed intermediate examination. So far as petitioner no. 2 is concerned, he is a matriculate. Petitioner no. 4 is said to be a graduate.

Learned counsel for the State has drawn the attention of this Court towards Annexure '6' to the writ application wherein it is stated that the claim of petitioner no. 3 had been rejected vide memo no. 1032 dated 9th October, 2018 on the ground that he was not a matriculate at the relevant time. In view of the statements made in paragraph '8' of the writ application, however it is the stand of the State that if the petitioners are found eligible as per rules, their names may be considered for promotion.

Having heard learned counsel for the petitioners and the State, this Court is of the considered opinion at this stage that the Director (Horticulture) must take up the representations and request of the petitioners to consider their names for promotion in accordance with the rules of 2015. Annexure '7 series' are some of the letters written by the Assistant Director



(Horticulture) of the different districts addressed to the Director (Horticulture) forwarding therewith the application of the petitioners.

The Director, Horticulture, Bihar, Patna is directed to consider the name of all the petitioners for promotion in accordance with the Rules of 2015 within a period of three months from the date of receipt/communication of a copy of this order.

It goes without saying that the Director (Horticulture) shall consider the case of the petitioners only in accordance with the Rules of 2015 and any letter or circular of the Department contrary to the rules shall not be a ground to reject the candidature of the petitioners. The reasoned order as respect the petitioners shall be passed within the aforesaid period.

This Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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