

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.463 of 2023

1. Rajesh Kumar Son of Hemant Sah, Resident of Village- Kerma, P.S.- Kudhni, District- Muzaffarpur.
2. Shiv Kumar Son of Devendra Singh, Resident of Village- RPS Mor, Danapur Patna, P.S.- Danapur, District- Patna.
3. Rajeev Ranjan Jha Son of Pramod Kumar Jha, Resident of Village- Goi Mishra Lagma, P.S.- Ghanshyampur, District- Darbhanga.
4. Shashikant Mani Son of Santosh Sinha, Resident of Village- Ghoswari Krar, P.S.- Ghoswari, District- Patna.
5. Shankar Bhandari Son of Haru Bhandari, Resident of Village- Bada Ambona, Dhanbad, P.S. and District- Dhanbad (Jharkhand)
6. Prakash Kumar Son of Ramdev Pathak, Resident of Purvi Ashok Nagar Road, Near Central School, P.S.- Ashok Nagar, District- Patna.
7. Ajay Kumar Kushwaha, Son of Jagdev Kushwaha, Resident of Village- Teghra, P.O. and P.S.- Babubari, District- Madhubani.
8. Abhishek Bhardwaj Son of Akhilesh Narayan Jha, Resident of Surbhi Path, Near Shiv Mandir, New Jakkanpur, P.S.- Phulwarishariff, District- Patna.
9. Chandrakant Jha Son of Yamuna Jha, Resident of Ward No.-2, Rani Kitta, P.O. and P.S.- Rani Kitta, District- Banka.
10. Navneet Kumar Son of Narad Mandal, Resident of Village- Makaspur, Koiri Tola, Ward No. 38, P.S. Bariyarpur, District- Munger.
11. Arun Kumar Mehta Son of Nasib Lal Mehta, Resident of Village- Chhatapur, Surpatganj, P.S. and District- Supaul.
12. Vikash Kumar Son of Damodar Prasad Chaurasiya, Resident of Ward No.2 Gandhi Nagar, P.S. and District- Motihari.
13. Md. Iqbal Hasan Son of Md. Nizamuddin, Resident of Village- Mahisaudi, P.S. and District- Jamui.
14. Naveen Kumar Son of Rajkumar Prasad, Resident of Janki Nagar, Hanuman Nagar, Sampatchak, District- Patna.
15. Shiveshanand Jha @ Shivesh Son of Sri Bishambhar Jha, Resident of Power House, Satsang Bhawan, Ashok Nagar, Road No.1, Kankarbagh, Sampatchak, Patna.
16. Ranjeet Kumar Son of Nagendra Singh, Resident of House No. LIG-267, SBS Colony, P.O., P.S. and District- Gaya.
17. Nishant Ketu Son of Vinay Singh, Resident of Village, P.O. and P.S.- Sampatchak, District Patna.
18. Dhiranjan Kumar Son of Damodar Prasad, Resident of Naya Tola Madhopur, Bakhtiyarpur, P.S.- Bakhtiyarpur, District- Patna.
19. Pawan Kumar Son of Rajeet Sah, Resident of Village- Lata, P.O.- Teliyadih, P.S.- Lakshampur, Pindron, District- Jamui.
20. Akhilesh Anand Son of Panchanan Pandit, Resident of Village, P.O. and P.S.- Pratapganj, District- Supaul.



21. Sudhir Kumar Son of Lal Babu Prasad, Resident of Dundi Bazar, Peepal Tal, Begampur, Sampakchak, P.S.- Begampur District- Patna.
22. Mukesh Kumar Son of Shiv Kumar Pandit, Resident of Ward No. 16, Amber, Biharshariff, P.S. and District- Nalanda.
23. Naina Tejaswani, Daughter of Bhola Prasad, Resident of Mahavirsthan, Moldiya Tola, Ward No. 13, Mokamah, District- Patna.
24. Ramesh Kumar Son of Mahendra Choudhary, Resident of Village- Maulabad, Daudnagar, P.S. and District- Daudnagar.
25. Kundan Kumar Son of Vinod Kumar Rajak, Resident of Near Madhya Bihar Gramin Bank, Usri, Shikarpur, District- Patna.
26. Dilip Kumar Son of Rameshwar Prasad Gond, Resident of Ward No. 18, Bara Sheikhpura, Near Ksheel Talab, P.S.- Madhupur, District- Deoghar.
27. Anil Kumar Ram Son of America Ram, Resident of Village- Maney Mani, P.S.- Ekma, District- Saran.
28. Dinesh Kumar Son of Jageshwar Ram, Resident of Village- Jamri, Post- Civil Aerodram, Gaya, Thana- Cherki, District- Gaya.
29. Ranjana Krishnan Son of Kailash Ram, Resident of Village- Tarabag Banu Chapra, West Champaran, P.S. and District- Bettiya.
30. Ravi Raushan Son of Brajendra Kumar Srivastava, Resident of Village and P.O. and P.S.- Mahidwada, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar the Additional Chief Secretary, Consumer Protection Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, General Administration, Government of Bihar, Patna.
3. The Board of Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Ray Path, R Block, Patna- 800002 through its Managing Director.
4. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Ray Path, R Block, Patna- 800002
5. Administration In Chief, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Ray Path, R Block, Patna- 800002
6. Nodal Officer, Food and Consumer Protection Department, Government of Bihar, Patna.
7. The Chairman, Bihar Combined Entrance Competitive Examination Board, BCECE Board, IAS Association Building, Near Patna Airport, Patna- 800014

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar, Advocate
For the State	:	Mr. Pawan Kumar, A.C. to A.G.
For the BSFC	:	Mr. Anjani Kumar, Sr. Advocate (AAG-4)



For the BCECEB : Ms. Anukriti Jaipuriyar, Advocate
Mr. Prasoon Sinha, Advocate

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 07-10-2023

The writ petition is filed challenging the rule which incorporated a direct recruitment to the post of Assistant Accounts Officer. The rule is in the Office Order of the Bihar State Food & Civil Supplies Corporation Ltd. and the amendment introduced reads as under:-

“Accountant Cadre (Recruitment, Promotion and Service Conditions) Rules- 2018-Approved with modification that 20 post of AAO shall be filled up by direct recruitment and remaining 19 by promotion only” (Annexure-II)”

2. Learned counsel for the petitioner specifically points out that this is in contravention with the other provisions in the rule.

3. We specifically refer to Rule 5 which speaks of recruitment in the cadre. Rule 5 reads as under:-

“5. Recruitment in the cadre:- (1) The Post of Accountant shall be the basic post of entry in the Cadre, which shall be filled up by direct recruitment by adopting a merit based process of competitive examination.

The Corporation will requisition category wise vacancies on the basis of reservation. Age qualification will be



requisitioned as on 1st January of the advertisement year.

(2) The educational qualification and qualification for recruitment and the process of recruitment will be as per the provisions of Appendix-2. The Cadre Controlling authority may make amendment in provisions of the said appendix by issuing notification time to time.”

4. It is the submission of the learned counsel for the petitioners that when direct recruitment to the cadre can be made only to the post of Accountant, there cannot be a direct recruitment prescribed in the higher post of Assistant Accounts Officer to which the Accountants were to be promoted prior to the said amendment.

5. We first notice the trite principle that, reduction in chances of promotion cannot lead to a challenge to the rule. The provision for direct recruitment is for better administration which the employer is entitled to definitely bring in. As far as the contravention of the other provisions of the rule, we have to notice that as per Rule 5 it has only been stated that the post of Accountant shall be the basic post of entry in the cadre to which post, direct recruitment is stipulated. This only indicates that the Accountant is the first post of entry but this does not prohibit a direct recruitment in any of the higher posts. The amended rule according to us is perfectly valid and needs no interference.



6. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	10.10.2023
Transmission Date	

