

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1832 of 2020

1. Renu Kumari Wife of Ram Vikash Sharma Resident of Village- Malipur Pakari, P.O.- Bhasarmachhaha, Uttari Ward No.13, P.S. and District-Sitamarhi.

2. Anu Kumari, wife of Ajit Kumar, resident of Village Kazipur, P.O.-Choota Shekhpura, P.S. Narhat, District Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Director-in-Chief, Health Service, Bihar, Patna, Muzaffarpur.
4. The Bihar Staff Selection Commission, P.O. Veterinary College, Patna-14 through the Secretary.
5. The Chairman, The Bihar Staff Selection Commission, P.O. Veterinary College, Patna-14.
6. The Secretary, The Bihar Staff Selection Commission, P.O. Veterinary College, Patna-14.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pranav Kumar with Ms. Shrishti Singh, Advocates
For the State	:	Mr. Rajeshwar Singh, GA 10 with Mr. Manoj Kumar Yadav, AC to GA 10
For the BSSC	:	Mr. S. S. Sundaram with Mr. Ankit and Mr. Chandra Shekhar Kr. Singh, Advocates

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 26-11-2024

Heard the parties.



2. The petitioners have preferred the present writ petition for the following reliefs:

“(i) To issue an appropriate writ order direction in the nature of certiorari for quashing the memo no. 1557 dated 03.07.2019 issued under the signature of Secretary Bihar Staff Selection Commission (hereinafter referred to as "Commission") whereunder against advertisement no. 03010216 candidature of 32 candidates with a "" mark and 25 candidates with a "#" mark had been kept cancelled. It further declared that now candidature of those with "*" mark has been cancelled for violating the clause 2 of the advertisement and further it was also directed that the candidates with a "#" mark will be present with all their certificates in the commission office on 18.07.2019 and after verification the candidature of such candidates will be decided (Annexure-7).*

(ii) To issue an appropriate writ order direction in the nature of mandamus commanding the respondent commission to come out with an amended merit list / result list of recommended candidates containing the name of the petitioners bearing Roll No. 31613836 & 31619457 as successful candidates against the merit list / result published on 02.09.2018.

(iii) To issue an appropriate writ order direction in the nature of mandamus commanding the respondent commission to appoint the petitioners to the post of Auxiliary Nurse Midwife (ANM) against the post advertised through advertisement no. 03010216 for appointment of ANM.

(iv) To declare and hold that no SIT case is pending against the petitioners and no investigation against the petitioners has been



initiated.

(v) To any other relief for which the petitioners appear to be found entitled by the Hon'ble Court.”

3. The petitioners have applied for the post of ANM in terms of advertisement No. 03010216 published by the Bihar Staff Selection Commission (hereinafter referred to as the ‘Commission’). On being found eligible, the petitioners were called upon to participate in the interview held by the Commission. Pursuant thereto, the petitioners appeared along with all the certificates, including the experience certificate, required in terms of the advertisement. After the finalization of interview process, the respondent Commission published the list of the recommended candidates for the post of ANM on 02.09.2018. The list clearly demonstrates the petitioners to be successful candidates and their names appeared in the list of the recommended candidates bearing Roll No. 31613836 and 31619457. However, at the bottom of the list, in the noting part it was mentioned that against the roll number containing “*” mark, the result has been withheld due to SIT case. No further details were disclosed of any SIT case. The petitioners despite knowing the fact that no SIT case is pending against them became surprised to see that against their roll number “*” mark had been indicated due to which their results were kept pending.



The matter was enquired and it transpired that the investigation with respect to Vigilance P.S. Case No. 44 of 2017 has been commenced on account of discovery of the name of various candidates in the mobile of the Secretary of the Commission. Upon completion of the investigation, chargesheet has been submitted bearing No. 46/17 on 03.05.2017. The charge sheet brought on record demonstrates that it has been submitted against 40 named accused persons but the names of the petitioners did not find figure therein, nor the petitioners were made accused in the afore noted case. Copy of the chargesheet has been placed on record as Annexure-5 to the writ petition.

4. On the strength of the aforesaid facts, learned Advocate for the petitioners thus contended that the petitioners were neither accused nor during the course of investigation any complicity of the petitioners have been found. Despite the fact, the petitioners have been deprived from their appointment.

5. Mr. Pranav Kumar, learned Advocate for the petitioners further contended that one identically situated person, namely, Saroj Kumari, being aggrieved by the action of the respondent Commission whose case was also not considered on account of pendency of the SIT case, approached before this Court in CWJC No. 24228 of 2018. The learned Court having



considered the material on record that there is no SIT case pending against her directed the authorities to examine the case of the petitioner and said that if it is found that no SIT case is pending against the petitioner, her candidature will be restored and accordingly needful action would be taken. Similar instance has also been placed on record wherein this Court in the case of Manorama vs. The State of Bihar & Ors. in CWJC No. 6872 of 2019 directed the Bihar Staff Selection Commission to consider the candidature of the petitioner. It is the contention of the petitioners that with respect to Saroj Kumari in CWJC no. 24228 of 2018 in the light of the order of this Court her candidature was duly considered and her case was recommended for appointment by the Commission.

6. On the other hand, learned Advocate for the Commission drew the attention of this Court to Annexure-1 to the writ petition, especially at page-17 that in case the candidates are found involve in influencing the authorities or giving false information, their candidature may be cancelled. Further attention has also been drawn to Annexure-B to the counter affidavit that the names of the petitioners have also been shown along with other candidates whose roll numbers were found in the mobile of the Secretary of the Staff Selection



Commission and as such their complicity in influencing the authority concerned cannot be denied.

7. Learned Advocate for the petitioners at this juncture submits that the identically situated candidate namely Saroj Kumari, her name was also figured in the list of those candidates at Sl. No. 42 but her candidature was considered and her name has been recommended pursuant to the direction of this Court in CWJC No. 24228 of 2018.

8. Having considered the submissions advanced on behalf of the learned Advocates for the respective parties and taking note of the stand of the Commission which do not specifically controvert the submission of the petitioners that there is no SIT case pending against the petitioners nor any chargesheet has been submitted, this Court has no option but to set aside the impugned Memo No. 1557 dated 03.07.2019 as contained in Annexure-7 to the writ petition and direct the respondent nos. 5 and 6 to consider the candidature of the petitioners in similar terms of the order of this Court dated 06.08.2019 passed in CWJC No. 24228 of 2018.

9. Suffice it to observe that if the case of the petitioners stand identical to that of Saroj Kumari, whose name has been recommended for appointment, similar treatment must



be accorded to the petitioners also. The entire exercise must be completed, preferably within a period of 12 weeks from the date of receipt/production of a copy of this order.

10. The writ petition stands allowed with the aforesaid observations and directions.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.11.2024
Transmission Date	

