

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6995 of 2019

Based on the order of Honble the Chief Justice relating to effective monitoring of Filing vacancies on diff't. posts in the Police forces in the state of Bihar and other States with reference to Writ Petition no. 183 of 2016 (Manish Kumar Vs. The Union of India) in Apex Court.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary.
2. The Principal Secretary, Home, Govt. of Bihar,
3. The Director General of Police, Govt. of Bihar.
4. Bihar Police Subordinate Services Commission, Patna through its Chairman.
5. Bihar Staff Selection Commission, Patna, through its Chairman.
6. Bihar Public Service Commission, Patna , through its Chairman.

... .. Respondent/s

with

Miscellaneous Jurisdiction Case No. 296 of 2020

In

Miscellaneous Jurisdiction Case No.393 of 2015

1. Md. Kurban Alam S/o- Md. Jalil Shekh R/o- Vill- Rasulpur, P.O.- Samardiha, P.S.- Sasaram, District- Rohtash, Roll No- 69190669, EBC- 1
2. Golden Kumar S/o- Ashok Thakur R/o- Vill- Ahirouli, P.O.- Ahirouli, P.S.- Industrial Area, Buxar, Distt- Buxar, Roll No- 67180793, BC-1
3. Binda Kumar Nirala S/o- Chandradeo Prasad Yadav R/o- Vill- Shiri Bigha, P.O.- Telari, P.S.- Nimchak- Batnani, Distt- Gaya, Pin Code- 821122, Roll No- 62360076, BC-2.
4. Raj Kishor Pal S/o- Shiv Shankar Prasad R/o- Moujampur, P.O.- Mahulighat, P.S.- Krisnagarh, Distt- Bhojpur, Pin- 802316, Roll No- 66240868, BC-1
5. Lal Bahadur Shastri S/o- Late Anandi Prasad R/o- Vill- Mandachh, P.O.- Sohsarai, P.S.- Nurarai, Distt- Nalanda, Pin Code- 803118, Roll No- 61150014, BC- 2.
6. Sanjeev Kumar Pandit S/o- Ramavatar Pandit R/o- Vill- Nayaseej Kewala, P.O.- Dilaspur, P.S.- Manihari, Distt- Katihar, Pin Code- 854113, Roll No- 86010387.
7. Amit Kumar Pandit S/o- Suresh Pandit R/o- Vill- Dharahara, P.O.- Dharahara, P.S.- Gopalpur, Distt- Bhagalpur, Roll No- 89050255, BC-1.
8. Binod Kumar S/o- Shri Kameshwar Yadav R/o- Vill- Manshapur, P.O. and P.S.- Karjan Bazar, Distt- Supaul, Roll No- 83040414 BC- 2.
9. Durga Nand Kumar S/o- Ram Lakhan Paswan R/o- Vill- Arer Sinuwara,



P.O.- Arer Hat, P.S.- Arer, Distt- Madhubani, Pin Code- 847222, Roll No- 79070709, SC.

10. Durga Paswan S/o- Alakhdev Paswan Narayani Kitab and Khel Ghar, BISCAMAN Gali, Harnaut, R/o- Ali Nagar, P.O. and P.S.- Harnaut, Distt- Nalanda, Pin Code- 803110 SC. Roll No- 61160431.
11. Ramashish Yadav S/o- Shri Rampravesh Yadav R/o- Vill- Nirmalbigha, P.O., P.S. and Distt.-Gaya, Pin Code- 8924232, Roll No- 62040755, SC.
12. Arvind Kumar S/o- Mukhlal Paswan R/o- Vill- Dowarika, P.O.- Utali Bara, P.S.- Bajirganj, Distt- Gaya, Pin Code- 824232 Roll No- 62060587, SC.
13. Santosh Kumar Ojha S/o- Binod Ojha R/o- Vill- Minapur Balha, P.O.- Bhaya Raja Parsouni, P.S.- Piprahi, Distt- Sheohar, Pin Code- 843325 Roll No- 72060501, Cat- General.
14. Kavita Kumari D/o- Awadhesh Yadav R/o- Vill- Tetua Birar Par P.O.- Atri, P.S.- Atri, Distt- Gaya, Pin Code- 823311, Roll No- 62050136, SC.
15. Hare Ram Pal S/o- Ram Chandra Pal R/o- Baghakhoh, P.O.- Tetradh, P.S.- Akorhi Gola, Distt- Rohtas, Pin- 821901, Roll- 68100676, BC- 2.
16. Mahesh Paswan S/o- Late Chootan Paswan R/o- Vill- Imadpur, P.O.- Baraita, P.S.- Bajirganj, Distt- Gaya, Pin- 8924232, Roll No- 62040755, SC.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Mr. Sumit Kumar Central Selection Board (Constable Recruitment), Bihar, Patna through its Secretary.
3. Mr. Sumit Kumar Chairman of the Central Selection Board (Constable Recruitment), Bihar, Patna.
4. Mr. Sumit Kumar, Secretary of the Central Selection Board (Constable Recruitment), Bihar, Patna.

... .. Opposite Party/s

with

Civil Writ Jurisdiction Case No. 3729 of 2020

1. Syed Tahir Ashraf S/o Syed Taiyab Ashraf, R/o Vill.- Ashraf Chak, P.o.- Simri Bakhtiyarpur, P.s.- Simri Bakhtiyarpur, District- Sahrsha
2. Santosh Kumar S/o Surendra Prasad Yadav, R/o At - Singiyan, P.o.- Amarpura, P.s.- Murliganj, Dist.- Madhepura
3. Arun Kumar S/o Sudist Prasad Yadav, R/o At- Singiya, P.o.- Amarpura, P.s.- Murliganj, District- Madhepura
4. Apresh, S/o Siyaram Prasad Yadav, R/o At- Singiya, P.o.- Amarpura, P.s.- Murliganj, District- Madhepura
5. Arun Kumar, S/o Indradev Prasad Yadav, R/o- At and P.o.- Dighi, P.s.- Murliganj, District- Madhepura



6. Jeetendra Kumar, S/o Kamleshwari Prasad Yadav, At- Sahpur, P.o.- Murliganj, Basantpur, P.s.- Saharsha, District- Saharsha
7. Subodh Kumar Sharma, S/o Upendra Sharma, R/o- At and P.o.- Murliganj Basantpur, P.s.- Bangoan, Distt.- Saharsha
8. Md. Khurshid Khan, S/o Md. Mannan Khan, R/o- At-Saharsha, P.o.- Maulanagar, P.s.- Atri, Dist.- Gaya
9. Md. Sheraj, S/o Md. Mannan Khan, R/o At-Saharsha, P.o.- Maulanagar, P.s.- Atri, Dist.- Gaya
10. Md. Rijwan Khan, S/o Md. Abdullah Khan, R/o At- Bantara, P.o.- Bantara, P.s.- Deovkund, Distt.- Auranabag
11. Md. Seraj S/o Md. Norr Alam, R/o At and P.o.- Ghordaur, P.s.- Salkhua, Distt.- Saharsha
12. Pravesh Kumar, S/o Basant Sao, R/o At-May, P.o.- Murliyachak, P.s.- Harnaut, Distt.- Nalanda
13. Bipin Kumar S/o Vilas Prasad, R/o At- Mustafapur, P.o.- Bele, p.s.- Islampur, Distt.- Nalanda
14. Md. Zubair Alam, S/o Md. Sagir Khan, R/o At- Bihta, P.o.- Pogar, p.s.- Rafiganj, Distt.- Aurangabad
15. Md. Miraz Khan, S/o Md. Munazir Khan, R/o At and P.o.-Palatpura, P.s.- Manpur, Distt.- Nalanda
16. Rajeev Yadav, S/o Badri Prasad Yadav, R/o At- Dharhara, P.o.- Amarpura, P.s.- Murliganj, Distt.- Madhepura
17. Md. Imran Khan, S/o Md. Sadullah Khan, R/o At and P.o.- Palatpur, P.s.- Manpur, Distt.- Nalanda
18. Nirbhay Kumar S/o Upendra Sharma, R/o At- Belkhri, P.o.- Khajuri, P.s.- Karpi, Distt.- Arwal
19. Chandra Shekhar S/o Bacchu Singh, R/o At- Kekhari, P.o.- Khajri, P.s.- Karpi, Distt.- Arwal
20. Gautam Kumar S/o amin Chandra Yadav, R/o At and P.o.- Khutaha, P.s.- Lodipur, Distt.- Bhagalpur
21. Mantu Ram S/o Sri Umesh Ram, R/o At- Sahpur, P.o.- Murli Basantpur, P.s.- Saharsa, Distt.- Saharsha
22. Dilip Kumar S/o Sri Satrugan Prasad Yadav, R/o At- Saptiyahi, P.o.- Sisai Agwanpur, P.s. and Distt.- Saharsha
23. Sanjay Paswan, S/o Ram Chandra Paswan, R/o At- Sahara Tola, P.o. and P.s.- Chausa, Distt.- Madhepura
24. Md. Samim Akhtar S/o Md. Ismail Uddin R/o At- Sahora Tola, P.o. and P.s.- Chausa, Distt.- Madhepura
25. Md. Manjoor Alam S/o Md. Kuddusuddin, R/o At- Sahora Tola, P.o. and P.s.- Chausa, Distt.- Madhepura
26. Vidya Hushan Paswan S/o Sri Pulkit Paswan, R/o At- Sahora Tola, P.o. and P.s.- Chausa, Distt.- Madhepura
27. Naddir Hussain Khan S/o Md. habbib Khan, R/o At- Vill.- Naina Ghat, P.o.-



Naina Ghat, P.s.- Sadar, District- Darbhanga

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. The Chief Secretary, Government of Bihar, Patna
- 3. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna
- 4. The Director General of Police Bihar, Patna
- 5. The Inspector General of Police (Budget/Appeal/Welfare), Bihar, Patna

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 6995 of 2019)

For the Petitioner/s	:	Mr. D.K Sinha, Sr. Advocate Mr. Umeshanand Pandit, Advocate Mr. Vipin Kumar Singh, Advocate Mr. Sriram Krishna, Advocate
For the Respondent	:	Mr. Rajnish Kumar, Advocate
For the State	:	Mr. P.K Shahi, AG Mr. Vinay Kirti Singh, Sr. Advocate (GA-2) Mr. Rajan Prakash, AC to GA-2
For C.S.B.C	:	Mr. Sanjay Pandey, Advocate Mr. Binod Kumar Mishra, Advocate Mr. Vivek Anand Amritesh, Advocate
For Intervenor	:	Mr. Indeshwari Pd. Mandal, Advocate Mr. Mayashankar Mishra, Advocate Mr. Pramod Kumar, Advocate Mr. Azhar Kareem, Advocate

(In Miscellaneous Jurisdiction Case No. 296 of 2020)

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate Mr. Raj Kumar Rajesh, Advocate Mr. Rajeev Kumar Singh, Advocate Ms. Supragya, Advocate Ms. Shashi Priya, Advocate
For the State	:	Mr. Prabhat Kumar Verma, Sr. Advocate, AAG-3 Mr. Sanjay Kumar Ghosarvey, AC to AAG-3
For C.S.B.C	:	Mr. Sanjay Pandey, Advocate Mr. Binod Kumar Mishra, Advocate Mr. Vivek Anand Amritesh, Advocate

(In Civil Writ Jurisdiction Case No. 3729 of 2020)

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Advocate
For the State	:	Mr. P.K Shahi, AG Mr. Sheo Shankar Prasad, SC-8 Mr. Sanjay Kumar, AC to SC-8

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-07-2024

This case is a classic example of a Public Interest Litigation, *suo motu* initiated on the orders of the Hon'ble Supreme Court, being hijacked by purely private interests, diverting its course and digressing from the very purpose behind its initiation.

2. The Public Interest Litigation was initiated on the basis of the orders issued by the Hon'ble Supreme Court in WP(C) No. 183 of 2013 on 11.03.2019, produced also as Annexure-7 in the supplementary affidavit filed on behalf of the intervenor-petitioners; which affidavit alone was relied on by the intervenors for the purpose of pleadings, when arguments were addressed.

3. The Hon'ble Supreme Court in Annexure-7 noticed the prayers in the writ petition as amended in terms of the interlocutory application filed therein and observed that the central issue canvassed is with respect to filling up of large number of vacancies in the Police Forces of various States. Though many States had filed their affidavits in response, the Hon'ble Supreme Court was of the opinion that the same should be relegated to the concerned High Courts with a consequent



request to entertain the matter on the judicial side as a *suo motu* Public Interest Litigation so as to monitor the prayers made, from time to time. The prayers made, monitoring of which was required are extracted herein below: -

- “A. Direction to all the States & Union Territories to constitute Police Commission to deal with allegation of police action, redressal of grievances of police and to make recommendations for the welfare of police force.*
- B. Directions to the States to formulate and implement the guidelines for prevention and control of violent mass agitations and destruction of life & property, in terms of the guidelines suggested by this Hon'ble Court in the decision reported as 2009(5)SCC 212.*
- C. Directions to the States and Union Territories to fill up the vacant posts in the Police and State Armed forces so that the police forces does not remain overburdened.*
- D. Directions to all the States and Union Territories to provide for periodic training and upgradation of police force and to fix the working hours for the police personnel.*
- E. Direction to the Union of India to prescribe guidelines for the Media Reporting of the violent mass agitation and police action for prevention and control thereof.*
- F. Order or Direction restraining the States from drawing a presumption against the action of police acting under the constitutional statutory obligations.”*

4. The present PIL was *suo motu* registered on the basis of the directions of the Hon'ble Supreme Court. The intervenors, who are said to be applicants to the various posts in



the Police Force within the State of Bihar for the year 2004 seek to agitate their cause; their failure to secure appointments in the recruitment, based on the monitoring of recruitments directed as paragraph (C) in the extracted portion above. We cannot but immediately observe that while the Hon'ble Supreme Court had directed monitoring of recruitments in 2019; which would apply to the subsequent years, the intervenors seek review of the recruitment of 2004.

5. We cannot but notice that as of now, the issues that arose in relation to the recruitments initiated in the years 2004 and 2009 are no longer alive for consideration and it is these stale claims the petitioners intend to agitate by the intervening applications; which we find to be misconceived. Though stated to be on the basis of the directions of the Hon'ble Supreme Court in another litigation, we cannot discern any such direction, reducing the instant PIL to a challenge to the selection process initiated in the years 2004 & 2009; concluded later on. To understand whether the directions of the Hon'ble Supreme Court have any nexus with the individual claims raised herein; we have to necessarily look at the numerous litigation that was initiated with respect to the 2004 and 2009 recruitments. The intervenor petitions agitate the cause of 2004 recruitment and so



does the writ petition. The MJC is with respect to a judgment in a case relating to the selections of the year 2009.

6. The arguments on behalf of the intervenors were led by learned Senior Counsel Nivedita Nirvikar and adopted by learned Senior Counsel D.K. Sinha and learned Senior Counsel Bindhyachal Singh. On behalf of the respondents, the learned Advocate General and learned Counsel Sanjay Pandey appeared. Petitioners had solely relied on the supplementary affidavit dated 13.12.2023 and decisions placed therein to buttress their contentions.

7. In the year 2004, Advertisement No. 01 of 2004 to fill up 5742 posts of Constables in different districts of Bihar was published. On the very same date, Advertisement No. 02 of 2004 was published to fill up 4057 posts of Constables in the Bihar Military Police (BMP for brevity). Yet another Advertisement No. 03 of 2004 was published for filling 675 posts of Constables in the Bihar Military Police, Jamui. The selection was to be on the basis of a physical test while the candidates were also required to appear and qualify in the written examination; which written examination was only for the purpose of testing their ability to read and write and not to rank them in the final select list. A number of appointments



were made and far later in the year 2009, Advertisement Nos. 01 of 2009 and 02 of 2009 were issued for further appointment of Constables in the Bihar Police Force. It was then that the litigation started with respect to the 2004 selections; a few of which vacancies of that year, which remained unfilled, having been carried over to the selections of 2009.

8. Some of the candidates who were not selected approached this Court with CWJC No. 5230 of 2009, claiming that they were higher in the merit list in the 2004 selections. There were 75 writ petitioners in the said writ petition in which the Counsel for the petitioner had only called for a lenient and compassionate view since they had become over aged to apply for the post under the advertisement of 2009. The learned Single Judge rejected the prayer, especially noticing that the appointments in pursuance of the 2004 advertisements have been closed. The said order is produced as Annexure-P1. A series of appeals were filed in which, on 15.03.2010, an interim order was passed, produced as Annexure-P2 in the supplementary counter affidavit, wherein the State was directed to bring on record the result sheet which would indicate the marks obtained by the various candidates. The appeals were disposed of by a detailed order as is seen from Annexure-P3



produced in the supplementary counter affidavit.

9. The Division Bench in Annexure P-3, based on an affidavit filed by the Director General of Police, Personnel and Administration, Bihar, Patna (for brevity 'DGP') found that the recruitment process continued even in the year 2008 for filling up vacancies in the selection commenced in the year 2004. The statement in the affidavit that few vacancies still remained, despite the sustained efforts to fill them up, was noticed. In paragraph 9 of the affidavit, it was stated that the unfilled vacancies of 2004 were included in the 2009 selections and that to confirm it a consolidated report has been called for from the Field Officers. Reckoning the statement, the Division Bench directed the DGP to ascertain the actual number of vacancies available on the date of publication of the advertisements in the year 2004 and prepare a fresh merit list of the candidates. There were a number of intervening applications in the appeals which were directed to be converted into writ petitions after payment of applicable court fees; in which event of payment alone, they were also entitled to the very same reliefs.

10. Still later, one of the persons who had a similar case approached this Court with *CWJC No. 126 of 2013 (Pashupati Kumar vs. The State of Bihar & Ors.)* claiming



that, he be appointed in the vacancy arising in the year 2004 and kept vacant till the year 2009. The said writ petition along with similar 592 writ petitions were disposed of by Annexure-P4 order dated 29.04.2013 by the learned Single Judge. The learned Single Judge noticed the judgment of the Division Bench passed on 28.06.2011 in LPA No. 831 of 2009 which was reported as ***Ajay Kumar & Ors. vs. The State of Bihar & Ors.; 2011 (3) PLJR 575*** (Annexure-3). It was noticed that pursuant to the Division Bench judgment, the exercise directed had been undertaken by the State Government and having completed the same, only 507 vacancies remain unfilled. Against these 348 candidates of the 2004 selection process were appointed and in the 159 remaining vacancies the process of appointment was continuing.

11. A counter affidavit filed by the Inspector General, Headquarters was specifically referred to, wherein the details of vacancies were delineated; from which, the relevant Paragraph 14 we extract hereunder:

‘That out of a total of 507 left over vacancies, 348 candidates have already been appointed as per merit list. 36 candidates are not available in a particular reservation category, 03 selected candidates have been found medically and physically



unfit, 15 selected candidates did not report for which next candidates in the merit list are being considered and 105 candidates are in various stages of issuance of call letters, medical examinations and other process of appointment which is to be expected completed within two months.'

The learned Single Judge noticed two contentions having been raised by the petitioner in CWJC No. 126 of 2013 and 592 similar cases; of i) the vacancies in the advertisement of 2004 being left in the midway and ii) those who had secured higher marks having been left out and the petitioners thus being denied of their rightful appointment.

12. The claim of the petitioner in CWJC No. 126 of 2013 was that his candidature under the Most Backward Category was not considered despite his having secured 14 marks, while those who secured 13 marks were considered. It was observed that the petitioner had raised no grievance between 2008 and 2011 and when he filed a representation in December, 2011 he claimed an appointment in Saharsa Range while his candidature was in Bhagalpur Range/District. The learned Single Judge categorically held that the challenge to the selection process undertaken in 2004 and completed in 2006 was highly belated. It was found that the petitioners if at all



could claim appointment to the 507 vacancies which were of the year 2004, which remained unfilled. The learned Single Judge found that the Division Bench in *Ajay Kumar (supra)* had only directed the filling up of the aforesaid vacancies. Reading the directions in *Ajay Kumar (supra)* in *rem* and not in *personam*, there was a direction to only consider filling up of 507 posts of Constables as identified in the year 2004. The petitioners were granted liberty to file representations before the Chairman of the respective Recruitment Boards. The learned Single Judge's judgment dated 29.04.2013 is produced as Annexure-P4.

13. Again, much later in the year 2014, a series of contempt cases were filed, alleging contempt of the directions in *Ajay Kumar (supra)* which were rejected by the Annexure-P5 order produced in the supplementary counter affidavit. The decision of the Division Bench in *Ajay Kumar (supra)* and that of the learned Single Judge in CWJC No. 126 of 2013 was noticed and it was categorically found that out of the total vacancies advertised in 2004, only 507 vacancies, if at all, remained as unfilled. The Bench considering the contempt application also noticed a coordinate Bench having rejected the contempt applications by order dated 14.07.2014. The settled policy of the State of Bihar to carry unfilled vacancies to the



next selection process was noticed with approval while rejecting the contempt petitions. The coordinate Bench dealing with the subsequent contempt applications noticed the directions of the Division Bench in *Ajay Kumar (supra)* to be two-fold: one, to the Director General of Police to ascertain the actual number of vacancies available in the year 2004 and the other, to prepare a fresh merit list of the candidates who would be declared eligible in the regular recruitment process.

14. The petitioners in the contempt case asserted before Court that the entire aspects were not brought before the earlier Division Bench which rejected the contempt applications. Hence, arguments were allowed to be addressed on every aspect. Addressing the second direction issued in *Ajay Kumar (supra)*, it was found that 797 vacancies were carried forward to the year 2009 and appointments to these posts were also made. This is because, by the time *Ajay Kumar (supra)* came to be delivered on 28.06.2011, the 2009 recruitment was proceeded with. Out of the 507 posts remaining vacant, 478 candidates were appointed in compliance of the direction in *Ajay Kumar (supra)* by constituting 13 new Constable Recruitment Boards; The Division Bench, hence rejected the contempt applications. Special Leave Petitions were filed before



the Hon'ble Supreme Court from the rejection of the contempt applications which also were rejected as per Annexure-P6. The litigation thus reached finality by the order of the Hon'ble Supreme Court.

15. A fresh lease of life was granted to the 2004 dispute in selection, by Annexure-8 order of the Hon'ble Supreme Court in *W.P.(C) No. 1133/2019* titled as *Manjesh Kumar v. The State of Bihar*. By the said order dated 11.09.2019, it was recorded that even according to the petitioners they were selected, but again there were certain irregularities namely the advertisement having not spelt out the number of vacancies, declaration of marks of individual candidates having been not done, recruitment process being undertaken in a phased manner and the authorities resorting to pick and choose. The Hon'ble Supreme Court specifically noticed that none of the candidates against whom such allegations were raised had been arrayed as respondents nor were there any details on record. Hence, the Hon'ble Supreme Court gave liberty to the petitioners to make an appropriate representation to the concerned authorities within one week; which representation was also directed to be considered within two weeks. It was specifically observed that there was no



consideration on the merits and demerits of the contentions. The representation was disposed of and this has led to the filing of C.W.J.C. No. 3729 of 2020; which impugned Annexure-1 order of the Director General of Police; rejecting the representation filed. There are 27 petitioners in the writ petition and definitely the contentions raised therein cannot travel beyond these petitioners.

16. The order of the Director General of Police is extracted hereunder:

The above matter is primarily related to advertisement number 01/04, 02/04 and 03/04 for constable recruitment. Perused the files and documents related to the said advertisement in the light of the judgment passed by the Hon'ble Supreme Court. Upon perusal, it was found that a total of 10474 posts were advertised under advertisement number- 01/04, 02/04 and under 03/04, in which 9113 candidates were appointed. No application was received for 51 posts in Railway Division(District) Katihar and 6 posts under Cabinet Vigilance Department. Hence, no appointment was made on these 57 posts. Advertisement was published in the year 2009 while carrying forward 797 posts. Thereafter, In the light of the order, dated 28.06.2011 passed by the Hon'ble High Court, Patna in LPA No. -831/2009, action was taken to fill the remaining 507 vacant posts $[10474-(9113+57+ 797)=507]$, out of which total 478 posts were filled and Candidates were not available for 29 posts as per the reservation category. These 29 vacant posts were further adjusted by various district forces in



the upcoming advertisements. As a result, there is no vacancy left under advertisement number- 01/04 02/04 and 03/04.

17. A counter affidavit has been filed in the writ petition on behalf of the respondents nos.4 and 5 in which the history of the litigation as noticed hereinabove has been detailed. It has been stated therein that 9113 candidates were appointed to the post of Constable, before the decision of the Division Bench of this Court in **Ajay Kumar** (*supra*) dated 28.06.2011. No applications were received for 51 vacancies of Rail District Katihar and 6 vacancies of Mantrimandal Nigrani; as such appointments were not made against these 57 posts. As noticed in the earlier litigation, subsequent to Annexure-3; i.e. in Annexure-4 decision in C.W.J.C. No. 126 of 2013 and also the batch of MJC's disposed of by Annexure-5, 797 vacancies were carried forward and the appointment to these posts were made through the advertisement of 2009. The advertisements were prior to **Ajay Kumar** (*supra*) and what remained out of the 10474 vacancies advertised in 2004 after excluding the appointments made, those posts for which no applications were received and the 797 vacancies carried over was, 507 [10474-(9113+57+797)]. Out of the 507 vacancies, 478 candidates were appointed in compliance of the order in **Ajay Kumar** (*supra*) by



constituting 13 new Constable Recruitment Boards and against 29 posts there were no candidates available in the specific categories as per the reservation roster. The table of appointments made in the various districts and also the BMP in 5 districts is shown in the tabular form which totals 478, including the 29 vacancies where no candidates were available. The directions with respect to the 507 vacancies is complied with.

18. We are of the opinion that the recruitment of 2004 and disputes with respect to the same have achieved finality and should be allowed to be laid to rest at least at this point after two decades from the commencement of the said recruitment. We cannot but observe that all the candidates who appeared in the 2004 recruitment would be grossly over-aged now. We also have to notice the submission of the learned Advocate General that subsequent to the 2004 and 2009 advertisements recruitments were made in the years 2012, 2013, 2014, 2017, 2019 and 2020. As we noticed at the outset, the Intervening Application are misconceived, insofar as the Public Interest Litigation is concerned with the general administration and upkeep of the Police Force in the State, for better maintenance of law and order.



19. We also have to notice the submission of the learned Senior Counsel that by Annexure-9 order in *W.P.(C) No. 320 of 2020* titled as *Jai Krishna Kumar Yadav v. The State of Bihar* dated 20.02.2020, the Hon'ble Supreme Court had noticed that the High Court of Judicature at Patna had taken *suo motu* cognizance and is in seisin of the matter in C.W.J.C. No. 6995 of 2019 and hence, felt it inappropriate to entertain the writ petition filed under Article 32 of the Constitution of India. The petitioners were given liberty to take appropriate proceedings in the High Court and agitate the concerned issues.

20. In fact, it was not the 2004 recruitment that was the subject matter of C.W.J.C. No. 6995 of 2019, which as we noticed above is a Public Interest Litigation registered *suo motu* for general monitoring of the effective administration and policing; including redressal of complaints of police high-handedness, prevention and control of violent agitations leading to loss of life and property, timely recruitment, training and upgradation of policing skills and so on; which was also initiated in every State. What remained insofar as the 2004 recruitment is the representation which was directed to be considered by the Director General Police as per Annexure-8 order in *Manjesh Kumar & Ors. v. The State of Bihar & Anr.*



in *W.P. (C) No(s). 372 of 2020*. The order passed in consideration of the representation filed, in compliance with the order in *Manjesh Kumar (supra)* is what is challenged in C.W.J.C. No. 3729 of 2020. We have already found that the rejection of representation is proper and there is nothing further to be considered. We also notice that in *Manjesh Kumar (supra)*, the Hon'ble Supreme Court had specifically stated that the candidates against whom allegations were raised were not impleaded and no details were available on record; which particulars are also not made available to us by the intervening applicants, either in their petitions or the supplementary affidavit filed as consolidated pleadings. Even the representation filed before the Director General of Police has not been annexed with the writ petition and the writ petition is also bereft of any details regarding the allegations raised and has not impleaded any party respondents being the candidates who are said to have had the benefit of an illegal or irregular appointment.

21. We find absolutely no reason to entertain the Intervening Applications and reject the prayers made therein. We reject the Intervening Applications, since the Public Interest Litigation has to be continued, as directed by the Hon'ble Supreme Court. The brief of the PIL has become unwieldy due



to the Interlocutory Applications and objections filed and hence, we close C.W.J.C. No. 6995 of 2019 and direct the Registry to register a fresh *suo motu* case on the basis of the specific directions given by the Hon'ble Supreme Court in ***W.P. (C) No. 183 of 2013*** titled as ***Manish Kumar v. Union of India***. dated 11.03.2019.

22. Now we come to the 2009 recruitment and litigation leading to certain directions issued; non-compliance of which is challenged in **M.J.C. No. 296 of 2020**. The first challenge to the selection of 2009 was disposed of by a learned Single Judge of this Court in ***Pinku Kumar Singh and Anr. v. The State of Bihar & Ors.; 2011 (2) PLJR 405***. The petitioners therein applied and were evaluated in a Physical Evaluation Test (PET-1) for selection as constables against the quota for Non-Home Guard candidates (for brevity, N-H.G.). Out of the total number of 10110 vacancies advertised 50% was earmarked for N-H.G. candidates and the rest for the Home Guard (for brevity, H.G.) candidates. A reading of the decision would indicate that there were sufficient candidates for appointment in the N-H.G category but after PET-1 the result of only 2228 candidates was declared. But there were not sufficient candidates in the H.G category since many had not achieved the cut-off marks in the



written examination. Out of the 5676 candidates who were called for PET-1, 5545 were N-H.G. candidates against 5058 available for them and only 131 were Home-Guard candidates against 5052 vacancies earmarked for them. The Central Selection Board entrusted with the selection process sought guidelines from the Government. As per the guidelines the Board called the applicants for the PET at a ratio of 1:5 by reducing the cut-off marks and a fresh list was published to comply with the 1:5 ratio and a Physical Evaluation Test was conducted which is termed in the decision as PET-2. While PET-2 was in progress, the result of only 2228 candidates were published and the rest kept on hold which resulted in this litigation.

23. The learned Single Judge after considering the matter elaborately found that the Board had committed errors in complying with the guidelines and the publication of the result of the half of the candidates in PET-1 and merging the remaining half in the results of PET-2 created an ambiguity. By the time the matter was heard, the respondent had completed PET-2 and also selected candidates out of the said evaluation. Hence, the Court restrained itself from quashing the entire list, but directed the respondents to redraw the final result of the



selected candidates on the basis of the two stages of PET test separately. It was also declared that the successful candidates of PET-1 should be published separately and must be recommended for appointment against the available vacancies, in the quota set-apart for N-H.G. and thereafter only the remaining vacancies in that quota should be filled up category wise from PET. The same procedure was to be adopted with respect to the H.G. candidates also. An appeal filed stood dismissed as seen from the *The State of Bihar & Ors. v. Pinku Kumar Singh & Anr.; 2011 (3) PLJR 584.*

24. Again, the matter was agitated before a learned Single Judge and the decision therein, *C.W.J.C. no. 15487 of 2011* and analogous cases *Kamlesh Dixit Raj v. The State of Bihar & Ors.* was approved in *L.P.A. No. 500 of 2016* titled as *The State of Bihar vs. Kamlesh Dixit Raj & Anr.* and analogous cases. The decision in *C.W.J.C. no. 15487 of 2011* and analogous cases is the one from which the contempt case arise i.e. M.J.C. No. 296 of 2020. In the decision dated 12.08.2014, the learned Single Judge in *Kamlesh Dixit Raj (supra)* looked at the earlier decisions of the learned Single Judge and the Division Bench and meticulously looked at the appointments made to the various categories. It was noticed that the break-up



of figures were not correctly placed before the Court in the earlier round of litigation and again the candidates have raised the issue of the Board having made a mess of the matter by wrong calculations in working out the vacancies; which was found to be correct. The Board, however, claimed that the vacancies were in accordance with the decision of this Court. The Court found that the facts and figures were not correctly placed before this Court at the earlier stage and that the Board committed a mistake by not applying the relaxation given by the Home (Police) Department to the H.G. candidates. The Court was of the opinion that though there were mistakes committed by the Board and normally this could have led to quashing/scrapping of the entire process; such an eventuality would lead to complete chaos and thousands of candidates who were already selected would be on the streets. Hence, the matter was referred to Director General of Police to get the entire exercise reworked. As we noticed the aforesaid judgment was also upheld by a Division Bench.

25. The present contempt was filed and the same was closed on 25.11.2019 by Annexure-1 order. Therein, observing the fact that the directions of the learned Single Judge were not implemented in its letter and spirit, the submission of the



respondent that all consequential action would be taken within a period of eight weeks was accepted and taken on record. The matter was disposed of also specifically recording the submission on behalf of the respondents that the directions while disposing of the MJC case would only apply to the names mentioned in the redrawn list. The number of candidates in the said list being, 1308, as far as the other candidates the issue was left open.

26. In the present MJC, 16 candidates have joined together. A counter affidavit has been filed by respondent nos. 2 and 4 wherein it has been stated that after perusal of the documents the result status of the 17 candidates including all the 16 petitioners were prepared which is placed in a tabular form. The roll number of petitioner no. 11 as mentioned in the contempt case was pointed out to be wrong which roll number belonged to one Mahesh Paswan, who was also among the 17 candidates. It is pointed out that out of the 17 persons, petitioner no. 16 had mentioned in his application form that he belonged to the Home Guard category. He passed in the written examination and was selected to appear for the Physical Evaluation Test but during the verification of the documents he did not produce his Home Guard certificate and since there was a mismatch in the



application form and the original document produced, his candidature was rejected. All the other 15 petitioners secured lesser marks than the cut-off in their respective categories.

27. The counter affidavit filed also submits that in compliance with the directions in Annexure-1 order in M.J.C. No. 125 of 2015, the Director General of Police, Bihar had vide letter no. 23/45365 dated 16.01.2020 requested the Board to send recommendation of eligible candidates from the 1308 as mentioned in the order. It was found that 60 candidates were ineligible for different reasons and recommendation regarding 1248 eligible candidates were allotted to the district/unit as per the vacancy made available by the Police Head Quarters. The cut-off marks in the various categories are stated in paragraph no. 8 and Annexure-C is the final result of successful candidates; under Advertisement no. 2 of 2009 was published on 10.08.2011.

28. We find absolutely no reason to entertain the contempt case also. There is no deliberate contempt of the directions issued by this Court in *C.W.J.C. no. 15487 of 2011* and analogous cases and the petitioners in the contempt having failed in the selection have no surviving cause. The contempt case also would stand closed.



29. Ordered accordingly.

30. The Registry shall immediately register a *suo motu* case as per the orders of the Hon'ble Supreme Court as herein before directed.

(K. Vinod Chandran, CJ)

Partha Sarthy, J: I agree.

(Partha Sarthy, J)

Sujit/Anushka/-
Aditya/-

AFR/NAFR	
CAV DATE	04.07.2024.
Uploading Date	19.07.2024.
Transmission Date	

