

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3493 of 2020

1. Pawan Kumar Mishra, Son of Shiv Narayan Mishra, Resident of Village-Tamouni, P.S.- Kajrali, Post- Semaria, District- Bhagalpur.
2. Jairam Thakur, Son of Sri Viptu Thakur, Resident of Ghuski, P.O.- Goru Bazar, District- Katihar.
3. Jai Prakash Rai, Son of Late Anandi Rai, Resident of Mahespur, Mirzapur, Ward No. 2, Post- Korha, Mirzapur, P.S.- Korha, District- Katihar.
4. Krishna Dev Yadav, Son of Late Babujee Yadav, Resident of Vill and P.S. and P.O.- Jadia, District- Saharsa.
5. Anand Prasad Thakur, Son of Late Sital Prasad Thakur, Resident of Balia, Anchal- Barari, District- Katihar.
6. Krishnandan Mishra, Son of Shiv Narayan Mishra, Resident of Village-Tamouni, P.S.- Kajrali, Post- Semaria, District- Bhagalpur.
7. Manoj Kumar Mishra, Son of Shiv Narayan Mishra, Resident of Village-Tamouni, P.S.- Kajrali, Post- Semaria, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reform Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reform Department, Government of Bihar, Vikash Bhawan, Patna.
3. The Director, Consolidation, Bihar, Patna.
4. The Joint Director, Consolidation, Bihar, Patna.
5. The Principal Secretary, Finance Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha, Advocate
For the Respondent/s : Mr. Dhurjati Kumar Prasad, AC to GP-14

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 12-01-2024

Heard learned counsel for the petitioners and
learned counsel for the State.

2. Learned counsel for the petitioners submits that
the present case has been filed for quashing of order annexed in
Annexure -3, contained in Memo No. 678 dated 26.07.2019 and



further to reinstate the petitioners in their services as regular employee w.e.f. 1990 and also directed to pay their salary from June 2016.

3. Learned counsel for the petitioners further submits that some of the employees who were working in the petitioners' organization have moved before this Hon'ble Court in MJC No. 3013 of 2018 in compliance with the order passed in CWJC No. 6379/2018 in which direction was given to the respondent authority to pass order on the representation of the petitioners. On being satisfied that the order passed in the writ petition has been complied with, the said MJC has been disposed of.

4. Learned counsel for the petitioners further submits that in compliance with the direction made in CWJC No. 6379/2018, order dated 26.07.2019 was passed vide Memo No. 678 in which the appointment of petitioners was also declared illegal and they have been removed from the service and the payment of the petitioners was stopped. Counsel further submits that the said order has been annexed in Annexure-3 to the writ petition which has been challenged primarily on two grounds. Firstly, no opportunity was granted to the petitioners to defend their case by the respondent authorities, and then the



order was passed behind the back by which the petitioners were removed. As such, the order impugned contained in Memo No. 678 dated 26.07.2019 so far as the petitioners are concerned, has been passed in gross violation of natural justice.

5. He further submits that another point on which the petitioners have put emphasis that the cancellation of the petitioners' appointment has been made only on the ground that petitioners were alleged to have been appointed in the year 1990 in the Purnea Division, but at the time of passing the said order, it has been acknowledged that prior to February 1991, the office of Joint Director, Consolidation, Purnea was not in existence. Therefore, there is no question of appointment of petitioners in the year 1990 by the Joint Director, Consolidation, Purnea. He further submits that he has annexed Annexure-7 to this writ petition in which information has been provided from the office of the Consolidation Department under the Right to Information Act by which it transpires that the office of Joint Director, Consolidation was established in the year 1991 but prior to that, the said office of Consolidation Department, Purnea was functional at Patna Headquarter of Consolidation Directorate and this aspect has not been considered at all.

6. Learned counsel further submits that non-



consideration of this aspect resulted in gross injustice to the petitioners and, therefore, he seeks indulgence of this Court in this matter.

7. Learned counsel for the State on the other hand submits that it is not correct to say that opportunity to the petitioners has not been granted. In the order contained in Annexure-3, there is a categorical finding that the removed employees have not provided any documents/records or evidence by which it can be proved that the office of the Joint Director, Consolidation, Purnea was there in the Purnea. He further submits that in paragraphs 21 and 26 of the counter affidavit, it is the categorical stand of the State that the decision has been taken only after due verification and enquiry in which it was found that the candidates in question, despite repeated reminders, did not furnish any valid document/evidence proving the veracity of genuineness of their appointment. It has also been mentioned that there is no question of violation of natural justice. As such, petitioners were given ample opportunity to present documents and evidence supporting their claim, but they miserably failed to present any.

8. Learned counsel for the State further submits that a Committee was constituted which conducted a detailed



enquiry and also examined concerned officials of Joint Director's (Consolidation), Purnea, Office and found that despite best efforts, the files and records pertaining to the concerned daily wage workers were not found. It was also found that the Issue Register of the year 2007, contained a record of Letter No. 17 dated 09.02.2017 which showed the issuance of a letter pertaining to the daily wage workers, and the same stands certified by one Sudhir Narayan, who was a Stenographer and the said entry does not contain signature of any officer.

9. In the present facts and circumstances and the pleadings made, it transpires to this Court that the present case is not a case of violation of natural justice. The Court is also of the opinion that prior to 1991, there was no office functional at Purnea. On the other hand, the document obtained by the petitioners under the Right to Information Act reflects that it may happen that the office of Purnea may functional from the headquarters but the petitioners must have the appointment letters and the said appointment letters must be available in the office and the letters related to their appointment available in the office only with the certification of one Stenographer who is not a competent authority. In this regard, a Committee was set up and opinion was taken from the Consolidation department at



various stages which transpires from Annexure-3 to the writ petition.

10. As such, this Court is of the firm view that the petitioners ought to have a valid appointment letter and even if after granting opportunity to them they have not produced those appointment letters or the basis of their appointments. Therefore, this Court is not inclined to interfere in this matter. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	16/01/2024
Transmission Date	NA

