

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.357 of 2021

In

Civil Writ Jurisdiction Case No.9206 of 2020

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1. Prabesh Kumar Das son of Late Babu Lal Das Resident of Village-Ambay, P.S.-Habibpur, District-Bhagalpur.
 2. Ajay Choudhary son of Shree RAgno Choudhary Resident of Village -Sabour Radhe Chouk, P.s.-Sabour, District- Bhagalpur.
 3. Niranjan Kumar Tanti son of Late Bhola Tanti Resident of Village-Mayaganj, P.S.-Barari, District - Bhagalpur.
 4. Kavita Kumari daughter of Vindeshvar Das resident of Village - Laheri Tola Sabour, P.S. - Sabour, District- Bhagalpur.
 5. Mukesh Choudhary son of Late Shankar Choudhary Resident of Village-Rahmatpur (Masa), P.S.-Asarganj, District- Munger.
 6. Wakil Das son of Late Nageshwar Das Resident of Village- Arsandih, P.S.-Bhihpur, District- Bhagalpur.
 7. Shubodh Kumar Bharti son of Chamak Lal Das Resident of Village- Holi Phemli School Banshitikar, P.S.- Sabour, District- Bhagalpur.
 8. Phul charan Das son of Shree Mohan Harijan resident of Village - Mirjapur, P.s. - Sabour, District- Bhagalpur.
 9. Rajendra Kumar Das son of Late Sukhdev Das resident of Village - Maruphchak Ambaee, P.S. - Babibpur, District- Bhagalpur.
 10. Sangita Devi wife of Krishna Das resident of Village - Pipradih, P.S. - Ranjaun, District- Banka.
 11. Bandana Bharti daughter of Gopal Das resident of Village - Pipradih, P.S.-Staun, District- Banka.
 12. Sushil Das son of Late Virnchi Das resident of Village Muvalpur, P.S. - Nathnager, District- Bhagalpur.
 13. Suman Kumari daughter of Shree Hira Lal Sah resident of Village - Mayaganj, P.S. - Barari, District- Bhagalpur.
 14. Umesh Kumr Ram son of Phul Chanad Ram resident of Village Laheri tola Sabour, P.S. - Sabour, District- Bhagalpur.
 15. Md. Saiph Bin Mallik son of Md. Abdul Mallik Gani resident of Village-Brahpura Uttar Tola Sahmat Husain Len, P.S. - Eshakchak, District-Bhagalpur.
 16. Shah Husain son of Shabbir Husain resident of Village - Amir Hasan Len Tatarapur, P.S. - Tatarpur, District- Bhagalpur.
 17. Ratan Kumar son of Ram Prasad Mandal resident of Village - Amarpur, P.S. - Bihpur, District- Bhagalpur.
 18. Madan Kumar son of Late Ram Lakhan resident of Village Mayaganj, P.s. - Barari, District- Bhagalpur.
 19. Sagufta Shahin daughter of Md. Abdul Shamad, wife of Md. Hussam Uddin resident of Moh.- Kajwali Chak Lutf Ali Cane, P.S. - Tatarpur, Distrit-



Bhagalpur.

20. Gautam Narayan son of Late Hirday Narayan Sah resident of Village - Mohiddinagar, P.S. - Mozaidpur (Babarganj), District- Bhagalpur.
21. Prabhat Ranjan son of Late Shree Naval Kishore Poddar resident of Village - Mohaddinager, P.S. - Mozaidpur (Babarganj), District- Bhagalpur.
22. Kiran Devi daughter of Anirudh adav, wife of Sanjiv Kumar Yadav resident of Village - Chorhar, P.S. - Kharik, District- Bhagalpur.
23. Prabhakar Mandal son of Shree Mani Mandal resident of Moh.- Badi Khanjrpur, (Jalim Koeri Len) P.S. - Barari, District- Bhagalpur.
24. Badal Kumar Chaudhary son of Pramanand Chaudhary resident of Village - Barouni, P.s. - Rajauna, District- Banka.
25. Kiran Kumari daughter of Gajendra Prasad Yadav C/O Murli Yadav resident of Moh.- Mayaganj, P.S. Barari, District- Bhagalpur.
26. Rekha Devi daughter of Vijay Sikdar resident of Moh.- Gola Ghat Dudhiya Mandir, P.S. - Tatarpur, District- Bhagalpur.
27. Sanju Kumri @ Sanju Devi daughter of Avinash Chandra Yadavav resident of Village - Sahebganj, P.S. University, District- Bhagalpur. At presently resident of Village - Sahabganj, P.S. - University, District- Bhagalpur.
28. Nanda Kumari daughter of Baldev Mandal resident of Village - Sarmsapur, P.S. - Lodipur, District- Bhagalpur.
29. Manjula Devi daughter of Mahendra Narayan Singh resident of Village - Hadva P.S. - Jagdishpur, District- Bhagalpur.
30. Rajiv Kumar son of Shree Bidya Prasad Karn resident of Moh.- Ganga Bihar Colony, Rani Talab, P.S. - Sabour, District- Bhagalpur.
31. Rupam Mala Kumari wife of Bhashkar Singh resident of Village - Shahjadpur, P.S. - Shahkund, District- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. the Principal Secretary General Administration Department, Bihar Patna.
3. The Commissioner Bhagalpur, Division Bhagalpur.
4. The District Establishment Committee through its Chairman, Bhagalpur.
5. The Chairman, District Establishment Committee, Bhagalpur.
6. The Deputy Secretary, General Administration, Bihar Patna.
7. The Collector Cum - District Magistrate Bhagalpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar, Advocate
For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG 3



CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 15-05-2024

The present LPA is filed in assailing the order of the learned Single Judge dated 06.04.2021 passed in CWJC No. 9206 of 2020. The appellants were stated to have initially appointed on *ad hoc* basis / daily wagers. The State government had evolved a policy decision to appoint them on regular basis. In this regard, a panel was prepared on 29.06.2019, however, the panel was not given effect to the extent of issuing of order of appointment to the respective candidates whose names are reflected in the panel. Hence, petitioners have presented CWJC No. 9206 of 2020. Learned Single Judge has rejected the claim of petitioners. Hence, the present LPA.

2. Irrespective of any observation made by the learned Single Judge, the appellants have not demanded before the competent / appointing authority to operate panel dated 29.06.2019. In the absence of such demand, question of issuing direction to the respondents to appoint the appellants is not warranted. In other words, for issuance of writ of mandamus two ingredients are necessary *namely* demand before the concerned / competent authority followed by legal / vested right to claim a



particular relief before the competent authority and second ingredient is duty cast on the concerned authority / competent authority to act in accordance with law. Both the ingredients are not forthcoming in the present *lis*, therefore, there is no infirmity in the order of the learned Single Judge dated 06.04.2021.

3. Accordingly, present LPA stands dismissed reserving liberty to the appellants to approach the concerned authority while submitting detailed representation as to how they have legal or vested right pursuant to the panel prepared on 29.06.2019. If such application or representation is submitted, concerned authority is hereby directed to decide their grievance at the earliest. It is made clear that dismissal of CWJC No. 9206 of 2020 may not be hurdle for appellants to submit representation and concerned authority to consider and pass suitable orders on the representation to be submitted.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2024
Transmission Date	NA

