

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 1315 of 2024

In

Civil Writ Jurisdiction Case No. 5529 of 2022

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1. Sunil Kumar Son of Basudeo Prasad Chaudhary Resident of Village- Kathrang, P.S.- Rajoun, District- Banka.
 2. Akhilesh Kumar Son of Badri Yadav, Resident of Village- Bela, P.S.- Fullidumar, District- Banka.
 3. Dilip Kumar Son of Pramod Yadav, Resident of Village- Kaitpur, P.S.- Barahat, District- Banka.
 4. Manish Kumar Son of Ashok Kumar Mishra Resident of Village- Bhumihara, P.S.- Shambhuganj, District- Banka.
 5. Lakhan Kumar Ray Son of Huro Prasad Rai, Resident of Village- Khajuridih, P.S.- Shambhuganj, District- Banka.
 6. Shivshankar Son of Ghanshyam Yadav Resident of Village- Sujal Kurama, P.S.- Rajoun, District- Banka.
 7. Manohar Hembram Son of Pramod Hembram Resident of village- Sitalal Dangal, P.S.- Bounsi, District- Banka.
 8. Manikant Kumar Son of Heera Sah Resident of Village- Katchatar, P.S.- Rajoun, District- Banka.
 9. Sunil Kumar Sah Son of Yogendra Prasad Sah Resident of Village- Kusamaha, P.S.- Bounsi, District- Banka.
 10. Amlesh Kumar Son of Janardan Yadav Resident of Village- Sujal Korama, P.S.- Rajoun, District- Banka.
 11. Mangal Mandal Son of Vasant Mandal, Resident of Village- Dumaria, P.S.- Rajoun, District- Banka.
 12. Jiyalal Kisku Son of Barhu Kisku, Resident of village- Manjur Tola, P.S.- Bounsi, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Home Secretary, Government of Bihar, Patna namely Senthil K Kumar
2. The Director General cum General Commandant, Home Guard Bihar, Patna namely Smt Shobha Ohatker.
3. The District Commandant, Home Guard Bihar, Patna.
4. The District Officer, Banka.



5. The District Commandant, Home Guard, Banka namely Harendra Kr. Singh.
6. The District Magistrate, Banka namely Anshul Kumar.
7. The Superintendent of Police, Banka namely Dr. Satya Prakash.
8. The District Welfare Officer, Banka.

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Shivendra Kr. Sinha, Advocate
For the Opposite Party/s : Mr. Divya Verma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 20-12-2024

1. The present petition has been filed for initiating contempt proceedings against the opposite parties for intentionally violating the order dated 12.12.2023, passed by this Court in CWJC No.5529 of 2022 and other analogous cases.

2. The learned counsel for the petitioners has stated that a writ petition bearing CWJC No.5529 of 2022 was filed for directing the respondent-authorities to fill up all the available vacancies of Home Guard in different districts pursuant to Advertisement No.01 of 2011 & Advertisement No.01 of 2006. This Court vide order dated 12.12.2023, passed in CWJC No.5529 of 2022 and other analogous cases had disposed off the said writ petitions with a direction to the respondent-authorities that in case any vacancy still remains to be filled up, the same be filled up expeditiously, in accordance with law. It is submitted by the learned counsel for the petitioners that despite



vacancies of Home Guard being still in existence in the district of Banka, the learned Collector, Banka has vide order dated 19.01.2024, held that there is no provision for publishing 2nd merit list for fresh nomination of Home Guards, either in the Bihar Home Guard Rules, 1953 or in the Advertisement in question, hence the claim of the petitioners has been rejected, which smacks of disobedience of the order of this Court dated 12.12.2023.

3. Per contra, the learned counsel appearing for the opposite parties has referred to the show cause filed in the present case to submit that the opposite parties had reconsidered the matter as also the cases of the petitioners individually, whereupon it was found that there are altogether 200 vacancies in rural and 20 in urban area in the District of Banka, apart from 62 backlog vacancies of the year, 2006, totaling to 282 vacancies, out of which 162 vacancies were filled up by suitable candidates and 120 vacancies were remaining to be filled up, however, no vacancies for the BC/SC/ST/General categories, block wise, are available qua the petitioners. It is stated that as far as petitioners no.1, 6, 8, 10 and 11 are concerned, they belong to the Rajaun Block and fall under the BC category, where the last selected candidate has got 11 marks whereas the



petitioners no.1, 6, 8 and 11 have got 10, 7, 6 and 10 marks respectively, whereas the petitioner no.10 has though got 11 marks i.e. equivalent to the marks of the last selected candidate, however, since his date of birth is 04.04.1991, whereas the date of birth of the last selected candidate is 06.03.1991, the petitioner no.10 could not make it to the select list. Therefore, since there is no remaining vacancy left for BC candidates, which is also apparent from page no.55 of the contempt petition, the petitioners no.1, 6, 8, 10 and 11 could not be selected in the Rajaun Block.

4. As far as the petitioner no.2 is concerned, he belongs to BC category under the Fullidumar Block, where the last selected candidates have got 8 marks whereas the petitioner has though got 8 marks but the date of birth of the last selected candidate is 01.01.1990, whereas that of the petitioner is 06.03.1991, as such the petitioner could not be selected and moreover a bare perusal of page no. 58 of the contempt petition would show that no remaining vacancy is left under the BC category.

5. As regards the petitioner no.3, it is stated that he belongs to the BC category, falling under the Barhat Block, where the last selected candidate has got 13 marks whereas the petitioner has got only 12 marks and a bare perusal of page



no.53 of the contempt petition would show that no remaining vacancy is left under the BC category, as such the claim of the petitioner is untenable in the eyes of law.

6. It is contended that petitioners no.4 and 5 belong to Shambhuganj Block. The petitioner no.4 belongs to the general category, wherein the last selected candidate has got 11 marks, whereas the petitioner has got only 9 marks. As far as petitioner no.5 is concerned, he belongs to the BC category, wherein the last selected candidate has got 9 marks whereas the petitioner has got only 8 marks. As such the petitioners no.4 and 5 could not be selected. Moreover, no remaining vacancy is left for General and BC candidates, which is also apparent from page no.47 of the contempt petition, hence the claim of the petitioners no.4 and 5 are also devoid of any merit.

7. It is next contended by the learned counsel for the opposite parties that the petitioners no. 7, 9 and 12 belong to the Bounsi Block. The petitioners no.7 and 12 belong to the Scheduled Tribe category while the petitioner no.9 belongs to the BC category wherein the last selected candidate has got 10 marks but the petitioner no.9 has got only 8 marks, as such he was not selected apart from the fact that a bare perusal of page no.52 of the contempt petition would show that no vacancies are



remaining under the BC/ST categories, as such claim of the petitioners no.7, 9 and 12 are without any merit.

8. Lastly, it is submitted by the learned counsel for the opposite parties that neither the advertisement nor the Bihar Home Guard Rules, 1953 postulate publishing of 2nd merit list for selection/nomination of Home Guards. Consequently, it is submitted that the order of this Court dated 12.12.2023, has stood complied with.

9. I have heard the learned counsel for the parties and perused the materials on record, from which it is amply clear that the cases of the petitioners have been duly reconsidered and it has been found that not only the petitioners have got less marks than the last selected candidate but no further vacancies exist in their respective categories pertaining to their respective blocks of the District of Banka, which has not been refuted by the petitioners in as much as no rejoinder affidavit has been filed by the petitioners. Moreover, this Court has, vide order dated 12.12.2023, directed the State authorities to fill up the remaining vacancies, in accordance with law.

10. Having regard to the facts and circumstances of the case and for the foregoing reasons, this Court is satisfied that the order of this Court dated 12.12.2023, passed in CWJC No.5529



of 2023, has stood complied with in its true letter and spirit,
hence the present petition stands dismissed, being devoid of any
merit.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.01.2025
Transmission Date	NA

