

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10247 of 2024

1. Kumari Sangeeta Sinha wife of Satish Kumar Verma, Resident of Village- Jehanabad, P.O. and P.S.- Kudra, District- Kaimur.
2. Rakesh Kumar, son of Byas Raut, Resident of Dighikala West, Nera Yogi Sthan Hazipur, P.S.-Sadar Hazipur, District-Vaishali.
3. Pratima Kumari @ Pratima Tiwari, wife of Anjani Kumar, resident of Kumhau, P.O.- Moresaray, P.S.- Shiv Sagar, District- Rohtas.
4. Saroj Devi, wife of Lalit Narayan Deo, Resident of Village- Uchaila, P.S.- Rohtas, District- Rohtas.
5. Kusum Kumari, Wife of Anil Kumar Pal, resident of Village Dawanpur Karwandia, P.S.- Sasaram, District- Rohtas.
6. Rekha Kumari, Wife of Chhavinath Paswan, Resident of Village Karamdihari, P.S. Sasaram Muffasil, District Rohtas.
7. Sudhakar Kumar, Son of Late Jagdish Singh, Resident of Village Wajrgani, PS Sasaram, District- Rohtas.
8. Guru Anand Jee, Son of Rajbal Ram, Resident of Village Songawa, PS- Dargaw, District-Rohtas.
9. Ranjeet Kumar, Son of Lalan Singh, Resident of Village Banrasiya, PS Sasaram Muffasil, District-Rohtas.
10. Santosh Kumar Paswan, Son of Deonarayan Paswan, resident of Village Barbanna Raniganj, PO- Merigan, PS- Raniganj, District- Araria.
11. Rupak Kumar Pandey @ Rupak Kumar, Son of Shivshankar Pandey, Resident of Village-Hasanpur Meriganj, P.S. Raniganj, District- Araria.
12. Chandra Mohan Singh, Son of Chandradev Singh, resident of Village and P.O.- Brahampura, P.S. Brahmpur District- Buxar.
13. Chintamani Ram, Son of Arjun Ram, resident of Village and P.O.- Naya Bhojpur, P.S. Dumrao, District Buxar.
14. Sima Devi @ Seema Devi, Wife of Sunii Kumar Singh, resident of Muradabad, PS-Sasaram, District-Rohtas.
15. Arun Kumar, Son of Late Satya Narayan Singh, resident of Village- Mahaddiganj, PS- Sasaram District-Rohtas.
16. Sunita Kumari, Wife of Ravi Ranjan Gupta, Resident of Village Sakhara, PS- Dehri-On-Sone, District- Rohtas.
17. Shakir Ansari, Son of Rizwan Hazam Ansari, Resident of Village- Shishagachhi, P.O.- Powakhali, PS- Powakhali Prakhand Thakurganj, District-Kishanganj.
18. Anil Kumar, Son of Satyanarayan Prasad, Resident of Ward No. 6. Medhiya P.O. Daparkha, P.S.-Triveniganj District-Supaul.
19. Sujeet Kumar, Son of Satyadeo Chaudhary, resident of Majurahan Kailash Nagar, P.O.- Motiharj Court, P.S.- Turkaulia, District- East Champaran.
20. Rajeev Kumar, Son of Lal Babu Prasad Yadav, resident of House No. 06 Bairiya Fursatpur, P.S.- Muffasil Motihari, District- East Champaran.



21. Sanjeev Kumar, Son of Mohan Sah, Resident of Pataura Pran Tola, P.S. Motihari Muffasil, District- East Champaran.
22. Mohan Prabhat, Son of Radhakishun Singh, Resident of Bastipur Tola Bara, P.O.-Rupdih, P.S.- Muffasil Motihari, District- East Champaran.
23. Kumari Anita, Wife of Shiv Shankar Thakur, resident of Village- Bara Bariyarpur Ward No. 1, P.O.- Bariyarpur, PS- Chhatauni Motihari, District- East Champaran.
24. Anil Kumar Mishra, Son of Prem Chand Mishra, Resident of Ward No. 06 Darwat Sena, PS- Muffasil Bettiah, District- West Champaran.
25. Uma Shankar Baitha, Son of Kapil Baitha, resident of Bevbanwa, P.O. Jogapatti, P.S. Jogapatti, District- West Champaran.
26. Munna Ram, son of Jai Shri Ram, resident of Navgawa Ward No. 10 P.S.-Jogapatti Naugawa District-West Champaran.
27. Anuradha Devi, Wife of Deepak Kumar Patel, resident of Banu Chhapr Near Shiv Mandir, Bettiah, PS- Muffasil Bettiah, District- West Champaran.
28. Buni Lal Ram, Son of Bhuti Ram, resident of Ahwar Majhariya, Ward No. 05, PS Mufassi Bettiah District West Champaran.
29. Asha Kumari @ Asha Devi, Wife of Subham Kumar @ Suman Kumar Resident of Chargaha Ward No. 3, P.S.- Muffasil Bettiah, District- West Champaran.
30. Seema Kumari, Wife of Surendra Kumar, resident of Ward No. 12 Chausa Bazar P.O.- Chausa P.S.- Buxar Muffasil, District- Buxar.
31. Rocky Kumari, Wife of Nand Kishore Lal Das, resident of Piprahi, Ward No. 14 P.S.- Raghapur, District- Supaul.
32. Annu Kumari, Daughter of Chhedi Lal Prasad, Resident of Village- Gopalpur, P.O. and P.S.- Hathua, District- Gopalganj.
33. Bablu Kumar, son of Doman Sah, Resident of Village-Asarganj, Munger, P.O.-Asarganj, P.S. Asarganj, District-Munger.
34. Savo Kumari, wife of Brijnanadan Paswan, Resident of Village-Kosuk, P.O. and P.S.- Rana Bigha, District- Nalanda.
35. Baby Kumari, D/o Ashok Rajak, Resident of Village, P.O. and P.S.- Rahui, District-Nalanda at Bihar Sharif.
36. Amit Kumar Aman, son of Shailendra Prasad, Resident of Village- Bhawanipur, P.O. and P.S.- Bhawanipur, District- Purnia.
37. Arbind Kumar Shrivastva, S/o- Kaushal Kishore Shrivastva, Resident of Village- Pipra Khas, P.O. and P.S.- Mirganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. Principal Secretary, Panchayti Raj Department Government of Bihar, Patna.
3. Special Secretary, Panchayti Raj Department, Government of Bihar.
4. Director, Panchayti Raj Department, Government of Bihar.



5. Principal Secretary, Rural Development, Government of Bihar.
6. Principal Secretary, Urban Development Government of Bihar.
7. The District Magistrate, District- Kaimur, Bihar.
8. The District Panchayat Raj Officer, District- Kaimur, Bihar.
9. The Sub Divisional Magistrate, District- Kaimur, Bihar.
10. The Block Development Officer, District- Kaimur, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dinu Kumar, Advocate
Mr. Vardaan Mangalam, Advocate
Ms. Ritika Rani, Advocate
For the Respondent/s : Mr. Standing Counsel (21)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 15-07-2024

The petitioners, who were earlier engaged on contract basis in the post as Gram Kachhari Secretary, as per the Bihar Gram Kachhari Secretary (Employment, Service Terms and Conditions and Duties), Rules, 2007, challenge Rules 5(1) and 5(4) of the Bihar Gram Kachhari Secretary (Employment, Service Conditions and Duties) Rules, 2014 (for brevity 'Rules of 2014'); the later of which is produced as Annexure-P/3. The petitioners also have a contention that since they were continued on contract employment for long, they should be adjusted in other vacant posts in the Gram Panchayats.

2. Insofar as their adjustment in other posts, it is to be noticed that all the petitioners were automatically sent out of



their contractual employment, when the Panchayats in which they were working were upgraded as Nagar Panchayat, after exercising the power under Sections 3, 4, 5, 6 and 8 of the Bihar Municipal Act, 2007. The Notification dated 28.12.2021 to this effect is produced as Annexure-P/4, which, even according to the petitioners, led to their disengagement from the contractual employment. No challenge was made at the time of such disengagement.

3. Later, the petitioners approached this Court with a similar prayer in CWJC No. 10284 of 2022, which was disposed of by Annexure-P/13 dated 08.08.2023. The petitioners, obviously, finding the Court disinclined to consider their prayers, submitted that they would be challenging the provisions of the Rules of 2014. The writ petition was dismissed leaving such liberty. The claim of regularization or absorption in any event cannot be entertained and as of now, especially considering the fact that earlier such a prayer was made and not pressed, the petitioners are estopped from raising such contention.

4. What remains is the challenge to the Rules of 2014, which is produced as Annexure-P/3. The challenge is primarily based on the revision of educational qualification in the Rules of



2014 from that provided in the earlier Rules of 2007. The earlier Rules provided a matriculation to be the qualification for appointment as Secretaries to the Gram Panchayats. The Rules of 2014 provides a 10+2 qualification (Intermediate pass) or an equivalent qualification declared by the State Government.

5. The petitioners' ground to challenge the provision is two fold; (i) that earlier the qualification was only matriculation and the petitioners were appointed on contract basis to the post of Secretaries in which they continued for long; (ii) that the prescription makes the weightage given to experience, unworkable.

6. The mere fact that the petitioners were matriculates and were earlier appointed in the post of Secretaries as per the then existing rules, cannot be a ground to challenge the present rules, which require a higher qualification for appointment to the very same post. It is trite that the employer has to decide the qualifications with respect to the employees and in the present case, the State Government had thought it fit to upgrade the qualification of Secretaries to Intermediate pass. It cannot at all be said that the said provision is ultra vires, illegal or arbitrary and there is no argument addressed as to how it can be so challenged. There is no valid ground raised by the petitioners to



find the provision to be ultra vires any provision of the Constitution of India, or any law made by the State Legislature. Illegality and arbitrariness cannot be alleged against the prescription of a higher qualification by the employer. We find absolutely no reason to entertain the challenge on this ground.

7. The next ground is that the weightage insofar as 2.5 marks entitled for every completed year of service; subject to a maximum of 12.5% to the persons who were working in the same post, is unworkable. The petitioners who are matriculates, would not be able to apply and be considered for the post. Merely because the petitioners who are matriculates were earlier appointed as Secretaries and they had not thought it fit to upgrade their educational qualification, would not result in the said stipulation of weightage being made unworkable. Those persons who had experience and who had higher qualification of Intermediate, earlier or obtained subsequently, would definitely be entitled to the weightage.

8. The very same contention is taken with respect to sub-rule (5) of Rule 6, which gives 10% weightage of marks to bachelor degree holders and 20% weightage of marks to post graduate degree holders. The petitioners contention again is that they would not be entitled since they are only matriculates.



9. From the higher qualification prescribed for Intermediate pass and also a preference given to bachelor degree holders as also the weightage provided to them and post-graduates; reflects the intention of the Government to have better qualified persons in the post of Secretaries, which would only embellish the quality of services offered by the Panchayati Raj Institutions. No citizen can claim that the rules of recruitment should have only qualifications which were earlier stipulated or that obtained by the persons, who were earlier taken into contractual employment. We also have to notice that the contractual employment does not create any right to the post and hence, the disinclination of the learned Single Judge to consider such prayers; in the earlier round of litigation.

10. We find absolutely no reason to entertain the writ petition and dismiss the same *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	18.07.2024
Transmission Date	

