

Civil Writ Jurisdiction Case No.11066 of 2024

- Petitioner/s

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary cum Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Director General cum Commandant General, Home Guard and Fire Services, Patna.
5. The District Magistrate, West Champaran at Bettiah.
6. The District Selection Committee through the Chairman cum District Magistrate, West Champaran, Bettiah.

... .. Respondent/s

For the Petitioner/s : Mr.Kumar Kaushik, Advocate.
For the Respondent/s : Government Pleader 3

For the Respondent/s : Government Pleader 3

ORAL ORDER

Heard. Mr. Kumar Kaushik, learned counsel

appearing on behalf of the petitioners and learned GP-3
appearing on behalf of the State.



2. Learned counsel appearing on behalf of the State, at the outset, submitted that the writ petition is not maintainable on the ground of delay and laches and also for the reason that the petitioners can also be held to be indolent and wisely remained as a fence sitter waiting for the result of the Letters Patent Appeal No. 645 of 2021.

3. Learned counsel appearing on behalf of the petitioners seeks similar relief as has been granted to the petitioner of CWJC No. 11645 of 2019 in which co-ordinate Bench of this Court vide order dated 05.02.2021 has passed *inter alia* following order:

"Considering the aforesaid, although the Court finds that the entire selection process undertaken by the respondents is contrary to Advertisement and vitiates the entire selection process but for the reason that only two petitioners have approached this Court, the respondents are directed to consider their case and accommodate them against the vacancy in the district of Muzaffarpur if they find the petitioners otherwise eligible for selection then necessary corrective measure may be taken by the respondents within a period of three months from the date of receipt/production of the copy of this order.

With the aforesaid, the writ petition stands allowed and disposed of."

4. He further informed that the order dated 05.02.2021 passed in CWJC No. 11645 of 2019 was affirmed by a Division Bench of this Court in LPA No. 645 of 2021 and after hearing the parties, the Division Bench has recorded following orders, which has been reproduced hereinafter:



"CWJC No. 9687 of 2022, CWJC No. 10541 of 2022, CWJC No. 11108 of 2022, CWJC No. 17589 of 2022

5. In the light of the order passed in aforementioned LPAs, rejecting the State appeals, these writ petitions are allowed in the light of the order of the learned Single Judge dated 05.02.2021 passed in CWJC No. 11645 of 2019. Whatever the directions ordered by the learned Single Judge is aptly applicable to each of the petitioner in these bunch of petitions. Accordingly, CWJC No. 9687 of 2022, CWJC No. 10541 of 2022, CWJC No. 11108 of 2022, CWJC No. 17589 of 2022 stand allowed in terms of order dated 05.02.2021."

5. Learned counsel further submitted that against the judgment/order dated 20.06.2024 passed in LPA No. 645 of 2021 the State had preferred Special Leave to Appeal (c) No(s). 21079 of 2024 and Special Leave to Appeal (c) No(s). 23768 of 2024. The Apex Court, vide order/judgment dated 30.09.2024, has passed following orders in Special Leave to Appeal (c) No(s). 21079 of 2024, which inter alia is reproduced hereinafter:

"1. We are not inclined to interfere with the impugned judgment and order of the High Court; hence, the special leave petition is dismissed.

2. It is, however, clarified considering the prayer made on behalf of the first petitioner-State of Bihar that relief as granted by the learned Single Judge of the High Court would remain confined to the two writ petitioners before it, i.e., Manjay Kumar and Sunil Kumar Ram.

3. Pending application(s), if any, shall stand disposed of."

6. The Apex Court, vide order/judgment dated 18.10.2024, has passed following orders in Special Leave to Appeal (c) No(s). 23768 of 2024 , which inter alia is reproduced hereinafter:

"1. We are not inclined to interfere with the impugned judgment and order of the High Court; hence, the special leave petitions are dismissed.



2. It is, however, clarified considering the prayer made on behalf of the first petitioner-State of Bihar that relief as granted by the Single Bench of the High Court would remain confined to the writ petitioners before it.

3. Pending application(s), if any, shall also stand disposed of."

7. Learned counsel appearing on behalf of the petitioners, at this stage, submitted that the condition imposed by the Apex Court that those order will be confined to the writ petitioners before the Apex Court, therefore, the same would not come in a way of this petitioners to the effect that the present is a belated writ petition. He informs that the that the petitioner's' result was published on 26.09.2023 and the petitioners filed the present writ petition in the year 2024 which shows that the petitioners have been conscious of their rights and cannot be said to be indolent or a fence sitter for which he has given sufficient reason in paragraph no. 24 of the writ petition.

8. Heard the parties.

9. To answer, as to whether, the present writ petition is maintainable or not, I proceed to verify from the records and the pleadings made in the writ petition, as well as, the above orders referred by the petitioner claiming equal treatment. The Advertisement No. 02 of 2011 is dated 16.07.2011 and in respect of the petitioner of earlier writ petition, the empanelment of the candidates in respect of the district concerned either is of



year 2019, while the selected candidate panel/list was prepared in case of the petitioner in the year 2023 after much delay. I also find from the records that the block wise merit list was prepared in respect of these petitioners and petitioners have stated in Para 14 of the writ petition that they have been discriminated with those who have been selected in another Block, who have less marks than the cut-off marks and the said empanel was prepared at the Block Level, which is contrary to the decision of this Court in CWJC No. 11645 of 2019, which has been affirmed in LPA No. 645 of 2021. I find that the petitioners cannot be held to be fence sitter as in the District of Bettiah (West Champaran), the action for preparing panel was prepared after much delay i.e. after passing of the order 05.02.2021 in CWJC No. 11645 of 2019 and order/judgment dated 26.06.2024 in LPA No. 645 of 2021. The process is still continuing and the petitioners cannot be held to have approached before this court after delay or they can be held to be fence sitter.

10. Considering the fact that out of the total vacancy notified for the District of Bettiah (West Champaran), 205 vacancy is for rural area and 25 vacancy is for urban area. The unfilled vacancy which is still remaining in rural area is 16 and



in urban area is 16. The petitioners have claimed to grant them similar relief in light of the judgment passed by this Court in LPA No.645 of 2021, which has been affirmed by the Apex Court in SLP Nos. 21079 of 2024 and 23768 of 2024.

11. Under the above mentioned facts and circumstances, the Director General of Police (Home Guard), Bihar is directed to consider the case of the individual petitioners. The petitioners, if so advised, file their individual comprehensive representation giving all the details in respect of their service particulars and fulfillment of their candidature to be considered in light of the judgment/order dated 05.02.2021 in CWJC No. 11645 of 2019, which has been affirmed by the Division Bench of this Court vide order/judgment dated 26.06.2024 passed in LPA No. 645 of 2021.

12. With aforesaid observations/directions, the present writ petition is disposed of.

(Purnendu Singh, J)

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