

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13264 of 2024

1. Laliteshwar Paswan Son of -Nandu Paswan, Resident of Village - Baghla, Kamalpur, P.S. - Vishanpur, District - Darbhanga.
2. Sunil Kumar Yadav, Son of Mukhi Yadav, Resident of - Chhaprar,, P.S. - Michichak (Bahadurpur), District - Darbhanga.
3. Surendra Kumar Yadav, Son of- Chhattar Yadav, Resident of Village - Baghla, Kamalpur , P.O.- Godhiyari, P.S. - Vishanpur, District - Darbhanga.
4. Shambhu Thakur, Son of Pitambar Thakur, Resident of Village- Mahisari, P.O. Bhawanipur, P.S. - Singhwara, District - Darbhanga.
5. Rana Ranjit Singh, Son of Late Guneshwar Singh, Resident of Viliage- Maksudpur, P.O.- Hayaghat, P.S. - Hayaghat, District - Darbhanga.
6. Sanjay Kumar, Son of Ramchandra Sahani, Resident of Village- Belwaganj, P.O. Laheria Sarai, P.S. - Laheria Sarai, District - Darbhanga.
7. Jitendra Choudhary, Son of Ramchandra Choudhary, Resident of Village- Bakarganj, P.O.- Laheria Sarai, P.S. Laheria Sarai, District-Darbhangha.
8. Lal Babu Paswan, Son of- Rambilash Paswan, Resident of Village- Kothi Majhi Gana, P.O.- Kothi Majhi Gama, P.S. - Keoti Ranway, District-Darbhangha.
9. Subaran Mandal, Son of-Sukan Mandal, Resident of Village- Atahar, P.O.- Baheri, P.S.- Baheri, District - Darbhanga.
10. Pratyush Kumar Choudhary, Son of-Satyandra Kumar Choudhary, Resident of Village-Darhar, P.O.- Laheria Sarai, P.S. Bahadurpur, District-Darbhangha.
11. Pramod Kumar Thakur, Son of-Thakku Thakur, Resident of Village- Bajitpur, P.O. Milkichak, P.S. - Bahadurpur, District - Darbhanga.
12. Syed Istayake Haider, Son of Syed Azam Hussain, Resident of Village- Chandanpatti, P.O.- Chandanpatti, P.S. - APM, District - Darbhanga.
13. Ranjeet Pradhan, Son of-Vinod Pradhan, Resident of Village- Pohaddi, P.O.- Pohaddi, P.S. Bahera, District - Darbhanga.
14. Ajay Kumar, Son of-Ram Narayan Prasad, Resident of Village- Asthua, P.O.- Asthua, P.S. - Singhwara, District - Darbhanga.
15. Bipin Kumar Ray, Son of Rambilash Ray, Resident of Village Bahadur, P.O. Bahadurpur, P.S. - Laheria Sarai, District - Darbhanga.
16. Anil Kumar, Son of-Nirmal Kumar Patel, Resident of Village- Susta, P.O.- Susta, P.S. - Sadar, District - Muzaffarpur.
17. Ramesh Mahto, son of Lachhman Mahto, Resident of Village- Saho, P.O.- Saho, P.S. - Biraul, District - Darbhanga.
18. Kamalbeer Yadav son of Mahendra Yadav, resident of Village-Baruara, P.O.- Kushouthar, P.S.-Bahadurpur, District-Darbhangha.
19. Sanjeev Kumar, son of Damodar Paswan, resident of Village-Dihkodai, P.O.- Gangiya, P.S.-Gaighat, District-Muzaffarpur.
20. Arjun Yadav, son of Jangilal Yadav, resident of Village-Baruara, P.O.- Kusothar, P.S.-Bahadurpur, District-Darbhangha.



21. Putul Kumari, Wife of Paguni Kamat, resident of Village-Atarbel, P.O.-Bihar Nursary, P.S.-Singhwara, District-Darbhangha.
22. Ramkumar Yadav, son of Choudhary Yadav, resident of Village-Ghorghatta, P.O.-Dhoi, P.S.-Bahadurpur, District-Darbhangha.
23. Umesh Prasad Rai, son of Damodar Rai, Resident of Village-Naudega, P.S.-Baheri, District-Darbhangha.
24. Vinod Kumar, son of Siya Lakhan Yadav, resident of Village-Bisbigha, P.O.-Dhoi, P.S.-Bahadurpur, District-Darbhangha.
25. Dinesh Kumar Paswan, son of Mahendra Paswan, resident of Village-Chainpur, P.O.-Shisho West, P.S.-Mabbi OP, District-Darbhangha.
26. Lal Babu, son of Late Kusheshwar Paswan, resident of Village-Balbhadrapur, P.O. Laheria Sarai, P.s-Bahadurpur, District-Darbhangha.
27. Baiju Kumar Singh, son of Ramswarth Singh, resident of Village-Juriya, P.O. Bakmandal, P.S.-Baheri, District-Darbhangha.
28. Binod Kanti, son of Anurga Kanti, resident of Village-Atarbel, P.O.-Bihar Nursery, P.S.-Singhwara, District-Darbhangha.
29. Pramod Kumar Das, son of Lalit Kumar Das, resident of Village-Bakerganj Said Nagar, P.O.-Laheria Sarai, P.S.-Laheria Sarai, District-Darbhangha.
30. Amarnath Paswan, son of Rajgeer Paswan, resident of Village-Baghala Kamalpur, P.O.-Panchobh, P.S.-Bishunpur, District-Darbhangha.
31. Md. Jamal, son of Md. Abbas, resident of Village-MOH VIP Road, Balbhadrapur, P.O.-Laheria Sarai, P.S.-Laheria Sarai, District-Darbhangha.
32. Lakshman Mahto, son of Ramdahin Mahto, resident of Village-Chandauna, P.O.-Chandauna, P.s.-Jale, District-Darbhangha.
33. Jay Narayan Mahto, son of Upendra Mahto, resident of Village-Upardaha, P.O.-Upardaha, P.S.-Bahera, District-Darbhangha.
34. Santosh Kumar Lal, son of Brijnandan Lal Deo, resident of Village-Jafra, P.O.-Sonki, P.s.-Sadar Sonki OP, District-Darbhangha.
35. Kusheshwar Chaupal, son of Sainee Chaupal, resident of Village-Loom, P.O.-Loom, P.S.-Sadar, District-Darbhangha.
36. Arun Kumar Thakur, son of Ram Pyare Thakur, resident of Village-Khaparpura, P.O.-Jalwara, P.S. Keoti, District-Darbhangha.
37. Utim Yadav, son of Ramakant Yadav, resident of Village-Baraur, PO-Mahpara, P.S.-Bahadurpru, District-Darbhangha.
38. Ganesh Panjiyar, son of Raghunath Panjiyar, resident of Village-Daing, P.O.-Baghaul, P.s. Baheri, District-Darbhangha.
39. Sanjay Kumar Nayak, son of Shiv Narayan Nayak, resident of Village-Lalpur Shiv Ram, P.O. Lalpur Shiv Ram, P.s. Baheri, District-Darbhangha.
40. Priyag Das, son of Parmeshwar Das, Resident of Village- Itwa Shivanagar, P.O.- Itwa Shivanagar, P.S. - Biraul, District - Darbhanga.
41. Md. Shamsher Ansari, Son of Md. Haider Ali, Resident of Village-Yusufganj, P.O.- Lala Bagh, P.S. - Laheria Sarai, District - Darbhanga.
42. Md. Akram Ansari, Son of Md. Haider Ansari, Resident of Village-



- Yusufganj, P.O Lal Bagh, P.S. - Laheria Sarai, District - Darbhanga.
43. Ramnarayan Paswan, Son of Ghantoo Paswan, Resident of Village- Dahaura, P.O. Dahaura, P.S. - Manigachhi, District - Darbhanga.
 44. Hare Ram Yadav, Son of Gourilal Yadav, Resident of Village- Susari, P.O.- Susari, P.S. - Baheri, District - Darbhanga.
 45. Md. Alam Hussain, Son of Abdul Hamid, Resident of Village- Balour P.O. Manigachhi, P.S. - Manigachhi, District - Darbhanga.
 46. Mohammad Anjar, Son of Masirul Haque, Resident of Village- Dahaura, P.O. Dahaura, P.S. -Manigachhi, District - Darbhanga.
 47. Bindeshwar Ram, Son of Jhameli Ram, Resident of Village- Kyasth Ka Bai, P.O. Raghupur Deodhi, P.S. - Manigachhi, District - Darbhanga.
 48. Ratneshwar Kumar Das, Son of- Sharwan Kumar Das, Resident of Village- Balaur, P.O. Manigachhi, P.S. - Manigachhi, District - Darbhanga.
 49. Nitya Nand Kumar, Son of Achhelal Yadav, Resident of Village- Mishrauliya, P.O. Dhoi, P.S. - Sadar, District - Darbhanga.
 50. Haidar Ali, Son of- Md. Mustapha, Resident of Village- Taralahi, P.O.- Taralahi, P.S. - Bahadurpur, District - Darbhanga.
 51. Ajay Kumar Jha, Son of- Ram Sukhit Jha, Resident of Village- Pouram, P.O.- Hayaghat, P.S. - Hayaghat, District - Darbhanga.
 52. Meghnath Singh, Son of Radhakant Singh, Resident of Village- Dudhiya, P.O.-Khirma Patra, P.S. - Karitaul, District - Darbhanga.
 53. Mahesh Mochi, Son of Narayan Mochi, Resident of Village- Ufardaha, P.O.- Bahera, P.S. - Ufardaha, District - Darbhanga.
 54. Md. Shakir Hussain, Son of Md. Siddique, Resident of Village- Khaja Sarai, P.S.-Laheria Sarai, Ward No. 46, District - Darbhanga.
 55. Lalit Kumar Raman, Son of Hiralal Mahto, Resident of Village- Mobbi Belauna, P.O.-Lalshapur, P.S. - Sadar, District - Darbhanga.
 56. Md. Jamil Ahmad, Son of Abdul Aziz, Resident of Village- Taralahi, P.O.- Taralahi, P.S. - Bahadurpur, District - Darbhanga.
 57. Anil Kumar Singh, Son of Late Lakshmeshwar Singh, Resident of Village- Aliabad, P.O.- Hayaghat, P.S. - Hayaghat, District - Darbhanga.
 58. Md. Mazharul Haque, Son of Late Fashiul Haque, Resident of Village- Bhaulka, P.O. Bhaulka, P.S. - Sadar Mobbi OP, District - Darbhanga.
 59. Nagendra Prasad Gupta, Son of- Late Harishchandra Prasad Gupta Resident of Village Kotwali Chowk Naka No. 5, P.O.- Lal Bagh, P.S. - Laheria Sarai, District - Darbhanga.
 60. Siv Kumar, Son of- Bihari Sahani, Resident of Village- Belwaganj, P.O.- Laheria Sarai, P.S. - Laheria Sarai, District - Darbhanga.
 61. Md. Mojibur Rahman, Son of Haji Abdul Rahaman, Resident of Village- Senapath, P.O. Lalbagh, P.S. - Town, District - Darbhanga.
 62. Sanjeev Kumar Sahani, Son of- Vishwanath Sahani Resident of Village- Belwaganj, P.O.- Laheria Sarai, P.S. Laheria Sarai, District Darbhanga.
 63. Ganga Devi, Wife of- Late Laxman Kamti, Resident of Village- New



Khajasarai, P.O.- Laheria Sarai. P.S. - Laheria Sarai. District - Darbhanga.

- 64. Sanjay Kumar Sah, Son of Muneshwar Sah, Resident of Village- Muhammadpur, P.O.- Pindaruch, P.S. - Kamtul, District - Darbhanga.
- 65. Lalit Kumar Pandit, Son of Bachan Pandit, Resident of Village Mahisari, P.O. Bhawanipur, P.S. - Singhwara. District - Darbhanga.
- 66. Ranjit Kumar Singh, Son of- Sudarsan Singh, Resident of Village- Thatopur Ward No. 2, P.O.- Thatopur, P.S. - Baheri, District - Darbhanga.

... .. Petitioners

Versus

- 1. The State of Bihar through the Chief Secretary, Bihar, Patna.
- 2. The Principal Secretary, General Administrative Department, Government of Bihar, Patna.
- 3. The Commissioner, Darbhanga Division, at Darbhanga.
- 4. The District Selection Committee (Group-D), Darbhanga through its Chairman cum District Magistrate, Darbhanga.
- 5. The Joint Secretary, Bihar Staff Selection Commission, Patna.
- 6. The District Magistrate, Darbhanga.
- 7. The Deputy Development Commissioner, Darbhanga.
- 8. The Additional Collector, Darbhanga.
- 9. The Deputy Collector (Establishment), Darbhanga.
- 10. The Deputy Collector (Nazarat), Darbhanga.
- 11. The District Welfare Officer, Darbhanga.
- 12. The Special Programme Officer, General Administration Department, Darbhanga.
- 13. The District Employment Officer, Darbhanga.
- 14. The Treasury Officer, Darbhanga.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	M.D. Waliur Rahman, Advocate Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. K.P. Gupta, GP 10 Mr. Satya Vrat, AC to GP 10
For the SSC	:	Mr. S.S. Sundaram, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 10-09-2024 In pursuance of an advertisement dated 01st
November 2012, published in the daily newspapers on 14th
February 2012, inviting applications for appointment of Group



D employees in the District of Darbhanga. The petitioners offered their candidature. They were indisputably empanelled by the recruitment authority prepared by the District Collectorate, Darbhanga. Some of them also got employment from the said panel. Subsequently, the process of recruitment was challenged in Kapil Kumar Vs. State of Bihar and Ors. (CWJC 18612 of 2019 and other analogous matters). A Co-ordinate Bench of this Court *vide* order dated 18th December 2019 held that any employment in violation of Article 14 and 21 of the Constitution of India is *de hors* the provisions of the constitutional protection and the said writ applications were disposed of with the following specific directions to the respondents:-

“....the Additional Chief Secretary/ Principal Secretary, General Administration Department, Government of Bihar, Commissioner, Magadh Division, Gaya and the District Magistrate, Gaya to ensure that the process of selection through the advertisement in question is completed by adopting a fair procedure. In my opinion, holding of written examination of the candidates who have applied against the said advertisement would be a fair procedure for preparation of merit-list, in the absence of any provision in the Rules. This, in my opinion, would ensure transparency in the process of selection. Since the advertisement was issued more



than six years ago, the respondents are directed to conclude the process of selection and appointment against such posts, which were available on the date of issuance of advertisement, within a period of three months from today. The respondents are further directed to ensure that a fair process of selection, strictly in accordance with statutory rules and in conformity with the mandate of Articles 14 and 16 of the Constitution is undertaken on regular basis, after advertising number of post, so that the persons acquiring eligibility after the initiation of one selection process have a chance to seek and participate in subsequent selection processes. This practice of fairness in the process of selection for filling up public posts generates faith in the hearts and minds of the citizen in the governance, laws and the Constitution.”

2. In view of the above direction, the General Administration, Department, Government of Bihar, issued a letter to all the District Magistrates including the District Magistrate of Darbhanga directing them to undertake the requisite exercise through BSSC. The applications received against the said advertisement dated 01st November 2012 in itself original along with other documents were forwarded to BSSC.

3. The learned counsel appearing on behalf of the petitioners also refers to a notification issued by BSSC on 30th



August 2024, fixing the date of examination on 15th September 2024 and 19th September 2024, in respect of different districts. It is further submitted by the learned Advocate appearing on behalf of the petitioners that previously, the academic qualification required for the Group D employees was Class 10th, but subsequently, it was amended to Class 8th Pass.

4. Under such factual background, the learned counsel for the petitioners has prayed that since, on the basis of an advertisement dated 01st November 2012, a panel was prepared and from the panel, some of the candidates were given appointment. The case of the petitioners ought to be considered on the basis of the rule prevalent prior to the decision in the case of ***Kapil Kumar*** (supra). It is also submitted by the learned Advocate for the petitioners that against the judgment passed by the learned Single Bench the petitioners preferred an appeal before the Division Bench and on dismissal of the said appeal, the petitioners preferred a Special Leave Petition being SLP (Civil) Diary No. 13775 of 2024. The said SLP is still pending before the Hon'ble Supreme Court. It is contended in this regard that if the Hon'ble Supreme Court reverses the order passed by the writ court as well as the court of appeal, the process of recruitment would be reverted back to the old procedure. In



view of such circumstances, the panel of the petitioners may be dealt with by the District Committee with regard to their appointment.

5. Having heard the learned counsel for the petitioners and the learned Advocates appearing on behalf of the State as well as the BSSC, I would like to record, at the outset, that on page 2 of the letter issued by the General Administration Department to the District Magistrates, a clarification was sought for about applicability of the decision of the ***Kapil Kumar*** (supra) from the learned Advocate General, Bihar. The General submitted his opinion in the following words:-

“It needs to be clarified that the judgment of Kapil Kumar case read with government notification dated 23.06.2020 cannot operate in rem to open a concluded proceeding in compliance of one or the other order of the court. In other words, if prior to 18.12.219, i.e., the date of judgment in Kapil Kumar Case, if writ petitions relating to appointment in departments/ districts at the behest of aspiring candidates were allowed and in compliance of the order of the writ court, appointments were completed by issuance of appointment letter, such inter-parties judgment will be binding and judgment of Kapil Kumar will have no retrospective application on judgments of Coordinate Benches prior to 18.12.2019. In other words, all such appointments which stood completed in pursuance of one or the other judgments/directions of the court cannot be



reopened with reference to Kapil Kumar judgment. Thus, all such appointments which stand concluded in pursuance to one or the other directions/judgments of the court, such appointments cannot be disturbed in the garb of implementation of direction contained in judgment dated 18.12.2019 in Kapil Kumar Case (supra), read with notification of GAD dated 23.06.2020.”

As regards, such appointments which are not covered by any orders/directions/judgments of the court and selection process has not concluded, such vacancies will be taken into consideration for filling up in accordance with direction contained in judgment dated 18.12.2019 in Kapil Kumar Case.

6. In view of such circumstances, relying on the opinion of the learned Advocate General, the General Administration Department issued a letter dated 19th December 2023 with regard to recruitment of Group D employees through the Bihar Staff Selection Commission. I do not find any illegality in the steps taken by the respondent authority while taking action with regard to the appointment of a Group D employees, in view of the decision in **Kapil Kumar**(supra).

7. The decision on **Kapil Kumar** (supra) still holds good in this field and on the basis of assumption as to what would happen in the future, if the decision of Kapil Kumar is overturned cannot be a ground to consider the case of the instant writ petition, favourably in favour of the petitioners.



8. For the reasons stated above, I do not find any merit in the instant writ petition, and accordingly, the same is dismissed.

(Bibek Chaudhuri, J)

Suraj Dubey/-

U			
---	--	--	--

