

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14276 of 2024

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Ajit Kumar Sinha, Son of Anant Prasad Sinha, Resident of Chitragupta Nagar,
Khagaria Mukhya Dakghar, P.S.- Chitragupta Nagar, District- Khagaria.

... .. Petitioner/s

Versus

1. The Bihar State Legal Services Authority (BSLSA) through its Secretary, Opposite Patna Museum, Buddha Marg, Patna, 800001.
2. The District Legal Services Authority (DLSA), Khagaria, through its Secretary, at District Legal Services Authority, Khagaria, 851204.
3. The District Judge-cum-Chairman, Appointment Committee, Legal Aid Defence Counsel (LADCS), Khagaria, At and District- Khagaria Civil Court.
4. Sanoj Kumar Singh Son of Lal Kishore Prasad Singh Advocate, Civil Court Khagaria, At and District- Khagaria Civil Court.
5. Prabhas Kumar Singh Son of Late Naresh Prasad Singh Advocate, Civil Court, Khagaria, At and District- Khagaria Civil Court.
6. The State of Bihar, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Advocate
For the Respondent State	:	Mr. Manoj Kumar Ambastha, SC 26
		Mr. Santosh Kumar Mishra, AC to SC 26

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 07-10-2024 Let the affidavits of service be kept with the record.

2. The petitioner has filed the instant writ petition on
the following relief:

*“(a) To call for the appointment letter of
respondents nos. 4 & 5 who have been appointed as
Deputy Chief Legal Aid Defence Counsel in, the
District Legal Services Authority, in the District of
Khagaria and also for quashing the same. Since the
appointments letters has not been notified in public
domain, petitioner is unable to annex the same.*

(b) For an appropriate writ /order/



direction to the respondents to consider the case of the petitioner and other eligible candidate for appointment to the post of Deputy Chief Legal Aid Defence Counsel in District Legal Services Authority, in the District of Khagaria.

(c) For any other relief /reliefs for which the petitioner is entitled.”

3. It is the case of the petitioner that he is a practicing lawyer in the District of Khagaria on the basis of an advertisement issued by the Secretary, District Legal Services Authority, Khagaria, inviting applications for appointment of the posts of Chief Legal Aid Defense Counsel (01 Post), Deputy Chief Legal Aid Defense Counsel (02 Posts), and Assistant Legal Aid Defense Counsel (2 Posts) on a contractual basis. The petitioner submitted his candidature as he fulfilled all criteria mentioned in the advertisement. Thereafter, a Committee constituted by the Chairman-cum-District Judge of the DLSA, Khagaria, took interviews of the candidates for engagement of Deputy Chief Legal Aid Defense Counsel on a contractual basis for a period of two years with stipulation of further extension of contractual appointment. However, the petitioner was not selected by the Committee, hence the instant writ petition. In the instant writ petition, the petitioner has also challenged the appointment of respondents no. 4 and 5 by the DLSA, Khagaria.

4. I have heard the learned Advocate for the petitioner.



It is needless to say that the State Legal Services Authority, District Legal Services Authority, and Taluka Services Authority are creatures of statute, namely, the Legal Services Act, 1987. However, on the basis of the Legal Aid Defense Counsel Scheme, which was modified in 2022, the DLSA was empowered to appoint cheap Legal Aid Counsel, Deputy Chief Legal Aid Counsel, and Legal Aid Defense Counsel in respect of the districts. The said scheme was prepared by the National Legal Services Authority (NLSA). It is found from the introductory discussion of the scheme on page 3:

“The system of court-based legal services needs to be strengthened for providing effective and efficient legal services to weaker and marginalized section of the society. To achieve the same, several steps have been taken, such as capacity building of lawyers, enhancing the structure and effective functioning of monitoring and mentoring committees, upgradation of front offices, etc.”

5. In the said process of strengthening and making legal services more professional, NLSA thought of adopting another legal aid delivery-based model, i.e., ‘Legal Aid Defense Counsel System’ for providing legal aid in criminal matters on the lines of the public defender system on pilot basis, for a period of two years in some districts to see how effective and



successful such changes in approach will be.

6. “As envisaged, Legal Aid Defense Counsel System involve full time engagement of lawyers with support system. The said unit deals exclusively with legal aid work in criminal matters at the district HQ, where it is established. Subject to feasibility, the services may be extended to Talukas or outline Courts. Initially, it was confined to cases before the Sessions, and now it will be expanded to all types of criminal courts, with Lawyers engaged therein not allowed to take any private cases or any other retainership. This will create institutional capacity to effectively provide legal aid to the poor and needy in the criminal justice system.”

7. It is not the case of the petitioner that the petitioner’s candidature was not considered by DLSA. The candidature of the petitioner was considered, and he was called in the interview. The Committee did not consider him to be fit for selection to the post of Deputy Chief Legal Aid Defense Counsel, Khagaria. The petitioner did not mention any foul play committed by the Selection Committee for which the decision of the Selection Committee may be called in question.

8. Moreover, every decision of the DLSA is subject to approval of the State Legal Services Authority.



9. It is found from the record that the petitioner submitted representations to the Chairman, State Legal Services Authority, but the said representations were not considered on the administrative side of the Chairman, State Legal Services Authority.

10. As the petitioner failed to make out a case of foul play by the Selection Committee, and the case of the petitioner is that he is academically more qualified than the selected candidates, cannot be the subject matter of the writ petition. In other words, the Writ Court is not in a position to consider the grievance of the petitioner.

11. 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/-

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