

1. Gautam Prasad Son of Raj Kumar Prasad Resident of Village- Bhuli, Bankmore, P.O.-Bhuli, District-Dhanbad (Jharkhand)
2. Gaurav Kumar Son of Ram Naresh Rajak Resident of Vilage-Charunwan, P.S.-Sneikhopur Sarai, P.O.-Charuanwan, District-Sheikhpura (Bihar).

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Panchyati Raj Department, Government of Bihar,
3. The District Magistrate Cum Chairman District Selection Committee Sheikhpura, District-Sheikhpura.
4. The District Panchayati Raj Officer, Sheikhpura, District-Sheikhpura.
5. The Deputy Development Commissioner, Sheikhpura.
6. The Commissioner, Division-Munger.

Appearance :

For the Petitioner/s : Mr.Ritika Rani, Adv
For the Respondent/s : Mr.Government Pleader (17)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 08-10-2024 Heard Learned Counsel for the petitioners and
Learned Counsel for the State.

2. The present writ petition has been filed for following reliefs:-

i. For commanding the respondent for issuance of waiting list against 8 vacant posts for appointment to the post of Technical Assistant in compliance of clause 10 of resolution no. 4046 dated 25/07/2018 as contained in Annexure-P/2 in the district of Sheikhpura.



ii. Also for commanding the respondents to consider for issuance of appointment letter in favour of petitioners against 8 vacant posts and the post due to non-availability of one female against SC category the petitioner who belongs to SC category may be considered against SC female vacant post in view of clause 3 (iii) of resolution no. 4046 dated 25/07/2018 as contained in Annexure-P/2 where it was specifically stated that the reservation will be granted according to notification no.963 dated 20/01/2016 as contained in Annexure-P/3

iii. For commanding the District Magistrate, District- Sheikhpura cum Chairman of District Selection Committee respondent no.3 to consider the case of the petitioners for appointment to the post of Technical Assistant against the 8 vacant posts out of 14 sanctioned posts, which is lying vacant pursuant to the resolution dated 25/07/18 as contained in Annexure P/2, issued under the signature of Secretary to the Government, Panchayati Raj Department for appointment to the 2096 of Technical Assistant on contract basis in the 38 Districts of the State of Bihar under Mukhiyamantri Gramin Gali Nali Pakkikaran Nischay Yojana.

iv. Also for commanding the respondent to take a final decision on representation dated 01/12/22, 03/12/2022, 07/05/23, 26/06/23, 07/08/2023, 01/03/2024 and 23/07/2024 as contained in Annexure-P/24 series made by the petitioners before District Magistrate Sheikhpura and the Director, Panchayati Raj Department Government of Bihar for issuance of appointment letter against 8 vacant posts including one vacant post for SC female category which was not filled up due to non-availability of SC female candidate and one post is lying vacant in SC male due to non-joining of Ranjanu Kumar who secured his position at sl no. 7 in final merit list for appointment to the post of Technical Assistant.

v. Also for commanding the respondent for issuance of appointment letter in favour of petitioner against candidate namely Ranjanu Kumar who secured her position in the final merit list at serial no. 7 against



SC category and did not join leaving the seat vacant and due to non-availability of female post against SC category one sanction post is still lying vacant and in compliance of notification number 963 dated 20/1/2016 the petitioners are fit to be considered for appointment to the post of Technical Assistance in view of clause 3 (iii) and clause 10 of resolution no. 4046 dated 25/7/2018 as contained in Annexure-P/2.

vi. Also commanding the state respondents to give the consequential service benefit which the petitioners are entitled in the eyes of law.

vii. Also for necessary relief/ reliefs, order/orders, direction/directions for which the petitioners are entitled in the eye of law.

3. Learned Counsel for the petitioners submits that in the light of the Annexure-P/2, a Resolution No. 4046 dated 25.07.2018 has been issued which has been published for appointment on the post of Technical Assistant whose Clause-10 states that “ *In addition to the merit list of each category, a waiting list of 50% more candidates will be prepared, which will be valid for one year beyond the date of selection.*” Counsel further submits that the petitioners have filed the present writ petition to exhaust their remedy provided by law. According to clause-10, the petitioners have been figured in the merit list and appointment could not be made. He further submits that the petitioners have earlier moved before this Hon’ble Court in *C.W.J.C. No. 15431 of 2021 (Gaurav Kumar & Anr. Vs. The State of Bihar & Ors.)* in which liberty was granted to pursue



their representation but no decision has been taken by the authority as it transpires from letter no. 268 dated 25.02.2023 (Annexure-P/22) that District Panchayati Raj Officer, Sheikhpura sought instruction from the Director, Panchyati Raj Bihar, Patna but due to non response from the Director, Panchyati Raj, the grievance of the petitioners have not been redressed and thereafter, the petitioners have filed the present writ petition before this Hon'ble Court seeking direction for his appointment on the said post in the light of Clause 10 of the a Resolution No. 4046 dated 25.07.2018.

4. Learned Counsel for the State opposes the prayer of petitioners and submits that it is true that according to Clause-10 of the Rule for appointment of Technical Assistant under Panchyati Raj, the merit list has to be prepared for 50% of more candidate and the said list of 50% candidates shall be inserted into waiting list which shall be valid for one year but here in the present case, the said merit list was published on 03.12.2018 which was valid till 04.12.2018, therefore, petitioners have no case at all.

5. In response thereof, Learned Counsel for the petitioners submits that once the petitioners have moved before this Hon'ble Court in C.W.J.C. No. 15431 of 2021,



liberty was granted to the petitioners to represent before the authority within the said period and limitation imposed by the Rule automatically extends. He further submits that it is due to non response of the Director, Panchayati Raj, the present situation has arisen.

6. Upon hearing the parties and the submissions made above, this Court is of the view that according to clause 10 of the Rule for appointment of Technical Assistant, the time has already been lapsed but liberty is hereby granted to the department that in case the Director, Panchyati Raj opts to appoint the petitioners from waiting list instead of advertising post afresh, then in that case, he shall be at liberty to do so as in case of petitioners, the representation was filed and due to non response of Director, Panchyati Raj delay has been caused but this time, petitioners are directed to file representation a fresh explaining each and every point before the Director, Panchyati Raj and the same is directed to pass reasoned and speaking order within a period of 60 days from the date of production/receipt of the copy of this order considering clause 4(C) of the Bihar Litigation Policy , 2011 that is to say, if in Bihar, other persons have been considered then the case of the petitioners shall also be considered.



7. Accordingly, the present writ application is disposed off.

(Dr. Anshuman, J)

Sunnykr/-

U			
---	--	--	--

