

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2139 of 2020

1. Satish Kumar, Son of Ram Bachan Thakur, Resident of Village-Lachchu Chhappar, PO-Pokhariya, PS-Chanpatia, District-West Champaran, Bettiah.
2. Deepak Kumar, Son of Ram Surat Rai, Resident of Village-Singha Chhappar, PO-Gonauli, PS-Chanpatia, District-West Champaran, Bettiah.
3. Sunita Kumari, Daughter of Babulal Baitha, Resident of Village-Lachchu Chhappar, PO-Pokhariya, PS-Chanpatia, District-West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar.
2. The Law Secretary, Old Secretariat, Patna.
3. The Registrar General, Patna High Court, Patna.
4. The Registrar Vigilance, Patna High Court, Patna.
5. The District and Sessions Judge, West Champaran at Bettiah.
6. The Additional District and Sessions Judge 1st, West Champaran at Bettiah.
7. The Additional District and Sessions Judge 6th, West Champaran at Bettiah.
8. Bhisham Narayan Singh, Son of Chandeshwar Singh, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
9. Md. Ahsanuddin, Son of Md. Nizamuddin, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
10. Anand Kumar, Son of Lal Bihari Sharma, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
11. Md. Firoz Ilahi, Son of Md. Mazsood Alam, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
12. Md. Akhtar Ali, Md. Sadre Alam, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
13. Baidehi Kumari, Wife of Shekhar Kumar Singh, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
14. Md. Ayaz, Son of Md. Quddus, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
15. Aman Kumar, Son of Bhrigunath Kunwar, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
16. Md. Nasim, Son of Md. Sanif, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
17. Md. Munawwar Hussain, Son of Md. Muzaffar Hussain, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
18. Saifur Rehman, Son of Jamil Akhtar, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
19. Md. Taha Hussain, Son of Late Md. Ali Hasan, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.



20. Md. Firoz Razak, Md. Imam Razak, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
21. Md. Sabir Alam, Son of Md. Bashir Alam, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
22. Srikant Parashar, Son of Shankar Kumar Pandey, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
23. Rukhsana Khatoon, D/o Md. Nizamuddin Khan, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
24. Manmohan Mishra, Son of Ramakant Mishra, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
25. Satyendra Kumar Giri, Son of Yogendra Giri, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
26. Saif Ali, Son of Md. Yusuf, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
27. Pintu Kumar Singh, Son of Dwarika Singh, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
28. Md. Meraz, Son of Md. Qayyum, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
29. Sanjay Kumar, Son of Jitan Ram, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
30. Ghanshyam Prasad, Son of Nathuni Mahto, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
31. Rajesh Kumar, Son of Vijay Kumar, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
32. Ravi Kumar, Son of Chand Mal Prasad, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
33. Dhamu Baboo, Son of Late Singasan Prasad, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
34. Mithilesh Kumar, Son of Narayan Prasad, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
35. Ajit Kumar, Son of Chandramauli Yadav, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
36. Brajendra Yadav, Son of Lakshman Ray, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
37. Deepak Kumar, Son of Dinesh Prasad, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
38. Vikash Kumar, Son of Shankar Prasad, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
39. Amit Kumar Kushwaha, Son of Ram Ayodhya Prasad Kushwaha, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
40. Mukhtar Alam, Son of Md. Mustafa, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
41. Renu Kumari, D/o Sri Ram Pravesh Prasad, at present posted as Peon Class-



IV employee, Civil Court, West Champaran, Bettiah.

42. Khusbu Kumari, W/o Sudhir Kumar, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
43. Mahabir Kumar, Son of Sheonath Das, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
44. Haroon Ansari, Son of Mobarak Ansari, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
45. Md. Asgar, Son of Babuddin Ansari, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
46. Pankaj Kumar, Son of Satyadev Thakur, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
47. Anita Kumari, D/o Mundrika Kumar, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
48. Md. Parvez Alam, Son of Late Md. Zafeer Alam, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
49. Akbar Ansari, Son of Md. Anwar Ansari, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
50. Birendra Sharma, Son of Banarsi Sharma, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
51. Bikash Kumar, Son of Kishun Sah, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
52. Pawan Kumar, Son of Ram Lakshan Ram, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
53. Pintu Kumar, Son of Nepu Ram, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
54. Ashwini Kumar, Son of Ramjee Ram, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
55. Anil Kumar, Son of Hari Bashant Raut, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
56. Raju Kumar, Son of Mahesh Ram, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
57. Santosh Ram, Son of Bhola Ram, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
58. Tribhuwan Kumar, Son of Sheet Bashant, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
59. Ved Prakash Ranjan, son of Bankteshwar Ram, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.
60. Alok Anshu Lakra, Son of Sunil Uraon, at present posted as Peon Class-IV employee, Civil Court, West Champaran, Bettiah.

... .. Respondent/s



Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate Ms. Ritika Rani, Adv. Mr. Arvind Kumar Sharma, Adv.
For the State	:	Mr. Gyan Prakash Ojha (GA-7) Mr. Ajit Kumar, AC to GA-7 Ms. Sangha Mitra Ghosh (AC to GA-7)
For Patna High Court	:	Mr. Satyabir Bharti, Adv. Ms. Kanupriya, Adv. Mr. Abhishek Anand, Adv.
For Private respondent no.38	:	Mr. Harsh Singh, Adv. Mr. Tej Pratap Singh, Adv.
For Private respondent	:	Mr. Mukesh Kumar Thakur, Adv.
For Respondent no.19 to 21	:	Mr. Sanjay Sinha, Adv. Mr. Fazle Karim, Adv.
For Respondent no.16, 39, 52 and 54	:	Mr. Ravi Nandan, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 08-02-2024

Heard learned counsel for the petitioners, learned counsel for the State, learned counsel for the private respondents and learned counsel for the Patna High Court.

2. The present writ petition has been filed for quashing the order no. 65 (APP) 2017 dated 01.08.2017 as contained in Annexure-2 by which respondent nos.8 to 60 have been appointed to the post of peon Class-IV employee in the Civil Court, West Champaran, Bettiah against advertisement no.1/2016 as contained in Annexure-1. Further prayer has been made directing the respondents for appointment of Class-IV employee as the said appointment has been made without preparing the statutory rule as per the order passed by the



Hon'ble Supreme Court in the case of ***Renu & Ors. Vs. District & Sessions Judge, Tis Hazari Court, New Delhi*** reported in ***2014(14) SCC 50***. Further prayer has also been made for quashing the order dated 13.05.2019 passed by the District & Sessions Judge, West Champaran, Bettiah as contained in Annexure-8 by which the District & Sessions Judge, West Champaran, Bettiah has not found any irregularity or illegality in process of appointment of respondent no.8 to 60 to the post of peon Class-IV employee in Civil Court, West Champaran, Bettiah. Further prayer has been made for commanding the Registrar, Vigilance, Patna to take a decision upon the representation dated 14.05.2018 as contained in Annexure-7.

3. Learned counsel for the petitioners submits that all the petitioners are citizens of India and they have participated in the appointment process through advertisement no.1/2016 issued by the District & Sessions Judge, West Champaran, Bettiah for filling up 53 vacancies as per the Bihar Civil Court Staff (Class-III & Class-IV) Rules, 2009 (hereinafter referred to as "Rules of 2009"). Counsel submits that in the light of the said advertisement, the petitioners and others participated in the interview, and after the interview, the appointment order no. 65 (APP) 2017 dated 01.08.2017 was published indicating the



names of 53 selected candidates and a waiting list of candidates of 13 in the General category, 4 in the Backward Class category, 5 in the EBC category, and 5 in the SC category respectively. Counsel further submits that before this Hon'ble Court, the writ petition in the form of Civil Writ Jurisdiction Case No. 17454/2017 was filed to fill up the vacancies of Group-B, C, and D employees as per Bihar Civil Court, Officers and Staffs (Recruitment, Promotion, Transfer and other service Conditions) Rules, 2017 (hereinafter referred to as "Rules of 2017") with further relief to direct the Registrar General, Patna High Court, Patna for not giving effect to the appointment of Class-IV post as per Rules of 2009 which has been repealed on 23.05.2017 after framing of Rules of 2017 with other reliefs.

4. Learned counsel for the petitioners submits that the said writ petition had been disposed of with liberty to the petitioners to approach the appropriate authority with regard to their grievances regarding the selections made in Bettiah Judgeship on Class-IV posts. It was also directed that in case, the petitioners make such complaints within a period of three weeks from today, the appropriate authority shall take appropriate action and dispose of the complaints in accordance with law. Counsel also submits that the petitioners have raised



the ratio laid down in the order dated 12.02.2014 passed by the Hon'ble Supreme Court of India in the case of ***Renu & Ors. Vs. District & Sessions Judge, Tis Hazari Court, New Delhi (supra)*** for compliance in which, it has been directed that the selection process described for 100% on the basis of interview came to an end and no further appointment can be made under Rules of 2009. Counsel further submits that as per the decision taken by the Standing Committee, Patna High Court, Rules 2017 was notified on 23.05.2017 in the Bihar Gazette and according to Rules of 2017, a written examination shall be of 85 marks and 15 marks for interview for appointment of Class-IV post. Counsel also submits that in the case of ***Union of India Vs. Ashok Kumar Agrawal reported in 2014(2) PLJR SC 286 (para 25)*** it has been held that any order passed by the authority in spite of the knowledge of the order of the Hon'ble Court remains a nullity and any subsequent action there would also be nullity.

5. Learned counsel for the petitioner submits that other discrepancies have been made in the selection process that the result of 2009 indicates that at Sr. No. 22, the name of Sanjay Kumar who was a reserved category candidate was treated as a general category. A maximum number of candidates



in the Muslim category have been appointed by way of favour, pick and choose policy. Counsel also submits that the petitioners made a representation before the Registrar General, Vigilance Department, Patna High Court in terms of the order passed in CWJC No. 17454/2017 dated 02.05.2018, then information under the Right To Information Act was provided to the petitioners. Counsel further submits that this Hon'ble Court in CWJC No. 14136/2017 *vide* order dated 17.04.2018 declared the Rules, 2009 as void, arbitrary, and in conformity with Articles 14 and 16. And therefore, the report of the District & Sessions Judge dated 13.05.2019 as contained in Annexure-8 is fit to be quashed for the ends of the justice. It has also been submitted that representation made to the Registrar General, Vigilance Department, Patna High Court in terms of the order passed in CWJC No. 17454/2017 dated 02.05.2018 has not been complied with by the Registrar General, Vigilance, Patna High Court, rather, the matter was referred before the District & Sessions Judge, West Champaran, Bettiah who passed order on 13.05.2019 which is against the spirit of the order passed on 02.05.2018 in CWJC No. 17454/2017 as well as against the direction in case of ***Renu & Ors. Vs. District & Sessions Judge, Tis Hazari Court, New Delhi (supra)***. As such, on this ground,



counsel for the petitioners request that the order no. 65 (APP) 2017 dated 01.08.2017 as contained in Annexure-2 and order dated 13.05.2019 passed by the District & Sessions Judge, West Champaran, Bettiah as contained in Annexure-8, ordered to be quashed.

6. Learned counsel for the Patna High Court submits that with a view to decide this case, there are certain dates that are very much relevant. Counsel submits that the advertisement for appointment published on 13.08.2016 in which it has been clearly mentioned the methodology of appointment, but the petitioners have participated in the examination process and not raised any objection in this matter on the basis of the above-mentioned case i.e. ***Renu & Ors. Vs. District & Sessions Judge, Tis Hazari Court, New Delhi (supra)***. Counsel further submits that the final result of selected and waiting list candidates was published on 01.08.2017 and the new rule for appointment according to Rules, 2017 was approved and published in the official gazette on 23.05.2017. Counsel submits that the ***Bihar Yuva Adhivakta Kalyan Samiti*** had filed a Public Interest Litigation (PIL) vide Civil Writ Jurisdiction Case No. 14136/2017 in which the final order came on 17.04.2018. In the said decision, the concluding paragraph by the Hon'ble Division



Bench categorically held that the appointment already made under Rules, 2009 i.e. where appointment orders have been issued and the selected candidates shall join service, as a right as accrued to the candidates by acceptance of joining, the same need not be cancelled or annulled nor can they be challenged only because they have been made under Rules, 2009.

7. Learned counsel for the State submits that the Hon'ble Division Bench order has come on 17.04.2018 after publication of the result in which the petitioners participated comes on 01.08.2017. Therefore, the successful candidates whose names are figured in the final selection list, got protection by the said order dated 17.04.2018 passed in Civil Writ Jurisdiction Case No. 14136 of 2017. Counsel further submits that this Hon'ble Court has been pleased to stop all appointments in the District Courts in the light of the protection order *vide* Court's letter dated 14.07.2015, but subsequently, further *vide* order dated 19.01.2016, steps were taken for the appointment of Class-IV posts. In the light of the full court's decision on 15.12.2015 as the Rules, 2017 was yet to be notified and it was notified only on 23.05.2017. Counsel submits that the protection to the appointee according to Rules, 2009 has been granted by virtue of order dated 17.04.2018 passed in Civil Writ



Jurisdiction Case No. 14136 of 2017. Counsel also submits that there is no violation of the order passed in Civil Writ Jurisdiction Case No. 17454 of 2017 was made, as in the said order, direction was given to the petitioners to approach the appropriate authority with regard to their grievances. The claim of petitioners that the said order ought to be passed by the Registrar Vigilance, Patna High Court is not correct. According to Rules, 2009, the competent authority for an appointment is the District Judge of the concerned district who has passed a reasoned and speaking order, therefore there is due compliance. Counsel further submits that in some districts, the process of appointment was not advanced like in Aurangabad, East Champaran, Gopalganj, Jehanabad, Darbhanga, Patna, Samastipur, Sitamarhi. The process of appointment was directed to be made afresh in accordance with Rules, 2017 and in this regard, the letter was issued on 17.05.2018 to the concerned District Judge, but in Bettiah, the process for appointment was already completed on 01.08.2017.

8. Counter affidavit on behalf of the private respondents submits that in compliance of the order dated 02.05.2018 passed in Civil Writ Jurisdiction Case No. 17454 of 2017, representation was disposed off by the District & Sessions



Judge, West Champaran, Bettiah *vide* his order dated 13.05.2019 with reasoned order in which it has been narrated that:-

“No irregularities or illegalities found in the process of the appointment to the post of Class-IV (under Advt. No.01/2014 and 01/2016) in the judgeship of Bettiah.”

Counsel also submits that at the time of deciding Public Interest Litigation (PIL) *vide* Civil Writ Jurisdiction Case No. 14136/2017 *vide* order dated 17.04.2018, this Court has pleased to grant protection to the persons who were appointed and joined services under Rules, 2009. The reserve category candidates have been appointed in general category only on the ground that there is no bar if, reserve category candidates comes within the general category. Counsel further submits that the Hon’ble Division Bench at the time of passing order in Civil Writ Jurisdiction Case No. 14136/2017 has pleased to consider and discuss the decision of the Hon’ble Supreme Court in ***Renu & Ors. Vs. District & Sessions Judge, Tis Hazari Court, New Delhi (supra).***

9. Upon perusal of the records and decision of the cases mentioned above, it transpires to this Court that the advertisement has been made on 13.08.2016, but the petitioners



have not challenged the said advertisement at any earlier occasion and has opted to challenge the same after about three years of the result when they were declared unsuccessful on 01.08.2017 and they filed case on 28.01.2020.

10. It also transpires to this Court that Hon'ble Division Bench at the time of passing order dated 17.04.2018 passed in Civil Writ Jurisdiction Case No. 14136/2017 has pleased to discuss all the cases which has been discussed by the petitioners in the present case namely, *Renu & Ors. Vs. District & Sessions Judge, Tis Hazari Court, New Delhi (supra)*, *Ashok Kumar Yadav Vs. State of Haryana, AIR 1987 SC 454* as well as in the cases of *Manish Kumar Shahi Vs State of Bihar & Ors. (2010) 12 SCC 576*, *Bishnu Biswas and Ors. Vs. Union of India and Ors. (2014) 5 SCC 774*, *Mahinder Kumar and Ors. Vs. High Court of Madhya Pradesh (2013) 11 SCC 87*, *Salam Samarjeet Singh Vs. High Court of Manipur at Imphal & Another (2016) 10 SCC 484*, *Praveen Singh Vs. State of Punjab & Ors. 2001 LAB. I.C. 47*, *Ramesh Kumar Vs. High Court of Delhi & Another (2010) 3 SCC 104* and *Vikram Singh and another Vs. The Subordinate Services Selection Board, Haryana and Ors. AIR 1991 SC 1011* and upon considering all the cases, Hon'ble Division Bench has pleased to



held that:-

“If that be the legal position, and if the case is analyzed in the backdrop of the totality of the circumstances, we are of the considered view recruitment undertaken as per the Rules of 2009 is a process which vitiates the recruitment of Articles of 14 and 16 of the Constitution. Merely by conducting a viva voce test a selection to a class IV post, in our considered view, should not be and cannot be approved by us in the light of the legal principles discussed hereinabove and when in such cases the selection process has not culminated in issuance of appointment letter, we have no hesitation in holding that all such process of selection should be cancelled and selection made afresh to the posts in all such districts in accordance to the new Rule of 2017. However, in such cases where the appointment letters have already been issued, the selected candidates joined or are on the process of joining duties, and where complaints are received, the High Court may cause an inquiry and after following the due process may annul the selection, if found to be illegal else the



appointments can be approved, if the same are found to have been done in accordance with law as was prevalent on the date of initiating the process of appointment. As far as the other districts detailed at Annexure-P are concerned, we direct for cancellation of the ongoing selection process and to initiate the process of appointment afresh in accordance to Rules of 2017. In case, any appointment process in accordance to Rule of 2017 has commenced in any of the districts in the state Bihar, the same may proceed in accordance to new Rules. We allow this petition and dispose it of in the manner as indicated.”

In the concluding portion of the said judgment, Hon’ble Division Bench of this Court has pleased to clarify the soul of this judgment which is as follows:-

“We may clarify that the appointment already made under the Rules of 2009 i.e. where appointment orders have been issued and the selected candidates have joined service, as a right has accrued to the candidate by acceptance of joining, the same need not be cancelled or annulled nor can they be challenged



only because the same have been made under the 2009 Rules.

The petition is allowed and disposed of.

Similarly, in case of **Satish Kumar & Ors. Vs. State of Bihar & Ors.** passed in Civil Writ Jurisdiction Case No. 17454 of 2017 dated 02.05.2018, this Hon'ble Court has directed that:-

“In view of the aforesaid, the writ petition is disposed of as withdrawn with liberty to the petitioners to approach the appropriate authority with regard to their grievances regarding the selections made in Bettiah Judgeship on Class IV posts. In case, the petitioners make such complaints within a period of three weeks from today, the appropriate authority shall take appropriate action and dispose of the complaints in accordance with law.”

11. Upon considering the parties and going through the pleadings as well as the different judgments placed before this Court, it transpires to this Court that the relief claimed by the petitioners has been made in the light of **Renu & Ors. Vs. District & Sessions Judge, Tis Hazari Court, New Delhi**



(supra). The said decision and other decisions have already been well discussed by the Division Bench of this Hon'ble Court in the case of **Bihar Yuva Adhivakta Kalyan Samiti, Patna Vs. the Patna High Court through its Registrar and Ors.** (After discussing all the decisions and situations which is also the guiding factor of the present case, the Division Bench of this Court has clearly reached on the conclusion as under :

“ We may clarify that the appointment already made under the Rules of 2009 i.e. where appointment orders have been issued and the selected candidates have joined service, as a right has accrued to the candidate by acceptance of joining, the same need not be cancelled or annulled nor can they be challenged only because the same have been made under the 2009 Rules ”.

12. Here in the present case, the appointment order to all the petitioners has been issued, they have selected candidates and joined their services, and rights have been accrued to all the private respondents then, in that case, their appointments cannot be challenged only on the ground that they are appointees of Rule 2009 Rules as decided by the Hon'ble



Division Bench of this Court.

13. In this view of the matter, this Court is not inclined to interfere. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J.)

Ashwini/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20/02/2024
Transmission Date	NA

