

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16174 of 2025

1. Sanjeev Kumar Rawat Son of Sri Krishna Rawat, Resident of Village and P.O. - Tihiya, P.S. Khaira, District- Jamui 811305.
2. Ramchandra Rawat, Son of Sri Kapildev Rawat, village- Katauna, P.O. - Mallaypur, P.S. Mallaypur, District- Jamui.
3. Ranbeer Kumar Rao, Son of Sri Ganesh Prasad Rao, Resident of Village- Katauna, P.O. - Mallaypur, P.S. - Mallaypur, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Home Government of Bihar New Secretariat Patna.
2. The Principal Secretary Department of Home Government of Bihar New Secretariat Patna.
3. The Director General of Police Home Guard, Sardar Patel Bhawan, Baily Road, Patna.
4. The District Magistrate, Jamui.
5. The District Magistrate cum Chairman District Selection Committee Jamui.
6. The Superintendent of Police Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Mishra, Sr.Advocate
Ms.Manini Jaswal, Advocate
Ms.Manas Rajdeep, Advocate
Mr.Shubham Kumar Upadhyay, Advocate
Ms.Megha Rani, Advocate
Ms.Adya Pandey, Advocate

For the Respondent/s : Mr. Government Pleader (24)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 05-12-2025 The petitioners have invoked the Constitutional Writ Jurisdiction of this Court under Article 226 of the Constitution of India for the following reliefs:-

*“i For issuance of an appropriate writ
quashing the order contained in memo no 259 dated
15.3.2022 issued under the signature of respondent*



District Magistrate cum Chairman District Selection Committee Jamui by which in most arbitrary manner the claim of the petitioner for their Selection on the post of Home Guard has been turned down.

ii. For issuing an appropriate writ in the nature of Certiorari quashing the decision taken by the respondent authorities for merging the vacant 24 seats of the District Home Guard, pursuant to the final result published in the Advertisement No. 01 of 2009

iii. For consideration of appointment of the petitioners on the post of District Home Guard, in the district of Jamui, who are the eligible/successful candidates in the selection list made by the respondents authorities.

iv. For passing an interim order not to merge the vacancy of 24 posts in subsequent advertisement.

v. Any other order/orders as your lordships may deem fit and proper in the facts and circumstances of the case.”

2. The case of the petitioners in brief is that *vide* an Advertisement No. 1 of 2009, 136 posts of Home Guards were directed to be filled up for the District of Jamui. The advertisement clearly states that the vacancy was declared on the basis of the district-wise requirement (जिलावार आवश्यकता अनुसार) and the candidates would be selected on the basis of



district-wise merit list (जिलावार नामांकन के उपरान्त).

3. The petitioners were initially shortlisted for physical examination which was held on 16th September, 2019 and on 21st of September, 2019, result was published. In spite of petitioners obtaining necessary marks in the physical examination, they were not called for medical examination. Subsequently, when the select-list was prepared, it was found that candidates obtaining lesser marks were selected and the petitioners candidature was rejected. A reason behind this anomaly was due to the fact that in the district of Jamui recruitment of Home Guards were made on the basis of block-wise vacancy and not on the basis of district-wise vacancy.

4. It is contended by the petitioners that the respondents changed the rule of game of recruitment after it was started which is absolutely arbitrary, bad in law and against the laudable principle of Article 14 and 16 of the Constitution of India.

5. Ms. Adya Pandey, learned Advocate on behalf of the petitioners on being allowed by the learned Senior counsel, Sanjeev Kumar Mishra submits that respondent authority took different stand in respect of selection and appointment of Home Guards in different districts. As for example, it is submitted by



Ms. Pandey that in the district of Patna, East Champaran, Purnea and Khagaria district-wise vacancy was taken into consideration though by way of different advertisement but in identical circumstances.

6. The petitioners previously approached this Court in C.W.J.C. No. 24372 of 2019. The said writ petition was disposed on 7th of December, 2021 by a Co-ordinate Bench directing the concerned respondent to take note of merit of each petitioners and proceeding to consider and appoint more merited person of the post of Home Guard within a period of two months from the date of receipt of this order.

7. Since the concerned respondent failed to carry out the order, the petitioners filed a contempt application being M.J.C. No. 429 of 2022 which was disposed of on 29.06.2022 giving liberty to the petitioners to resort to appropriate remedy in respect of later development, in accordance with law.

8. Two other persons under similar circumstances filed C.W.J.C. No. 11645 of 2019. The said writ petition was disposed of on 05.02.2021, holding, inter alia:-

“The advertisement is rule of game which binds the parties. The Court finds that the terms of advertisement has not been followed by the respondents in the process of preparation of select



list and instead of district-wise vacancy they have adopted block wise vacancy and even in the preparation of select list block-wise vacancy as is evident from the averment made in the counter affidavit there is departure.”

9. In view of such circumstances, the above-mentioned writ petition was disposed of directing the respondents to consider the case of the petitioners and accommodate them against the vacancy in the district of Muzaffarpur if they find the petitioners otherwise for selection then necessary corrective measure may be taken by the respondents within a period of 3 months from the date of receipt/production of copy of this order.

10. In some cases, the State of Bihar and in some other cases, the petitioners filed as many as three appeals under letters patent and four writ petitions which were taken up together by a Co-ordinate Division Bench. *Vide* order dated 18th of March, 2024, the Division Bench held relying on the principle laid down in the case of ***Nair Service Society v. Dr. T. Beermasthan & Ors.***, reported in ***(2009) 5 SCC 545*** that the instruction issued by the Government of India in so far as bifurcation of urban and rural and block-wise is contrary to Act, 1947 read with Rules, 1953.”

11. Thus, it is clear that the Division Bench



conclusively held in appeal that there cannot be any differentiation in case of recruitment considering the vacancy district-wise and in some cases block-wise.

12. The State of Bihar challenged the aforesaid order in Special Leave to Appeal (C) No(s). 21079 of 2024 but the Hon'ble Supreme Court was pleased to dismiss the Special Leave Petition with a caveat that the relief as granted by the learned Single Judge of the High Court would remain confine to the two writ petitioners before it i.e., Manjay Kumar and Sunil Kumar Ram. The petitioners again filed C.W.J.C. No. 12439 of 2022 and the said writ petition was disposed of giving liberty to them to submit a representation before the District Magistrate of the district within a period of four weeks from the date of the order and the District Magistrate was directed that their representation shall be considered and disposed of by a speaking order within a period of 12 weeks. Annexure P/9 is the reasoned order of the District Magistrate, Jamui, whereby and whereunder the District Magistrate rejected the representation of the petitioners on the ground that the Hon'ble Supreme Court while disposing of the above-mentioned Special Leave Petition directed to grant relief to two petitioners of C.W.J.C. No. 11645 of 2019.



13. The issue before this Court is not that the petitioners of C.W.J.C. No. 11645 of 2019 were entitled to get appointment as directed by the Hon'ble Supreme Court. The issue that ought to have been decided by the District Magistrate, Jamui was whether vacancy should be filled up district-wise or block-wise. It is not in dispute that in Jamui, block-wise vacancy was taken into consideration and the petitioners' candidature were rejected in spite of the fact, the candidates who got lesser number in different block within the District got the appointment. The above procedure in considered opinion of this Court is absolutely arbitrary and against the Advertisement No. 1 of 2009 where district-wise vacancy and selection of candidates were stipulated.

14. For the reasons stated above, this Court is not inclined to accept the observation made by the District Magistrate, Jamui while rejecting the representation of the petitioners.

15. The instant writ petition is disposed of directing the District Magistrate, Jamui to rewrite the vacancy position, taking into consideration the vacancy list district-wise and thereafter to consider whether the petitioners come within the zone of consideration or not. If they come within the zone of



consideration, the District Magistrate or the competent authority shall offer letter of recruitment to the petitioners. The entire exercise shall be made within a period of four weeks from the date of this order.

16. The parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J)

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