

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13874 of 2024

1. Alok Ranjan S/o- Awadhesh Singh, R/o- Mohalla Satendra Nagar, Jai Maa Colony, Naga Bigha Road, P.O. and P.S. and Dist.- Aurangabad.
2. Rahul Kumar Singh, S/o- Gopal Singh, R/o Vill.- Akauni, P.O.- Reghaniya, P.S.- Rafiganj, District- Aurangabad.
3. Deepak Kumar, S/o- Shiv Chandra Prasad Sinha, R/o- Mohalla- Patel Colony, Nagabigha Road, P.O. and P.S. and Dist.- Aurangabad.
4. Jitendra Kumar Yadav, S/o- Ram Swarup Yadav, R/o Vill.- Pathak Bigha Aroua, P.O.- Aroua, P.S.- Deo, District- Aurangabad.
5. Manish Kumar, S/o- Jagdish Prasad, R/o Vill.- Patnawan, P.O.- Padrawan, P.S.- Jamhor, District- Aurangabad.
6. Dhananjay Kumar Singh, S/o- Madan Yadav, R/o Vill.- Tiwari Bigha, P.O. and P.S. and Dist.- Aurangabad.
7. Mamta Kumari, D/o- Vinay Kumar Singh, R/o Mohalla- Anugrah Nagar, Behind Sone Colony, P.O. and P.S. and Dist.- Aurangabad.
8. Rupesh Kumar, S/o- Sarju Ram, R/o- Vill.- Gangati, Ward No.- 31, P.O., P.S. and Dist.- Aurangabad.
9. Rekha Kumari, D/o- Ramraj Ram, R/o- Vill.- Katharua, P.O., P.S. and Dist.- Aurangabad.
10. Hari Narayan Singh, S/o- Late Bipat Singh, R/o Vill.- Jasoiya Tola, Kanhai Bigha, P.O., P.S. and Dist.- Aurangabad.
11. Jitendra Yadav, S/o- Narayan Yadav, R/o- Vill.- Gajadhar Bigha, P.O.- Karma Bhagwan, P.S.- Muffsil Aurangabad, District- Aurangabad.
12. Sunil Kumar, S/o- Banshi Chaudhary, R/O Mohalla- Biratpur, Gagati Road, P.O., P.S. and Dist.- Aurangabad.
13. Ramji Thakur, S/o- Surendra Thakur, R/o Vill.- Dewriya, P.O.- Padrawan, P.S.- Jamhor, District- Aurangabad.
14. Binay Kumar Malakar, S/o- Ganesh Bhagat, R/o Vill.- Kanchanpur, P.S.- Kashipur, District- Aurangabad.
15. Birendra Kumar, S/o- Shalik Yadav, R/o Vill- Pipardih, P.O., P.S. and Dist.- Aurangabad.
16. Ravindra Kumar, S/o- Shalik Yadav, R/o Vill.- Pipardih, P.O., P.S. and Dist.- Aurangabad.
17. Hemanti Kumari, D/o- Duaatal Kumar, R/o Vill.- Ram Rajya Nagar, P.O.- Aurangabad, P.S.- Aurangabad, District-Aurangabad.
18. Sarita Kumari, D/o- Umesh Saw, R/o Vill.- Ram Rajya Nagar, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
19. Mahendra Kumar Das, S/o- Rajvanshi Das, R/o Vill.- Mahavir Nagar. P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.



20. Mritunjay Kumar, S/o- Jagnath Sahay, R/o Vill.- Hardtta, P.O.- Amba, P.S.- Amba, District- Aurangabad.
21. Pradip Kumar, S/o- Satendra Singh, R/o Vill.- Khakhra, P.O.- Kunda, P.S.- Muffasil, District- Aurangabad.
22. Manraj Kumar, S/o- Rampati Yadav, R/o Vill.- Badri Bigha, P.O.- Karma, P.S.- Muffasil, District- Aurangabad.
23. Rajkishore Kumar, S/o- Doman Saw, R/o Mohalla- Biratpur, Dharnidhar Road, P.O., P.S. and Dist.- Aurangabad.
24. Uday Kumar, S/o- Ramkeshi Yadav, R/o Vill- Pipardih, P.O., P.S. and Dist.- Aurangabad.
25. Santosh Choudhary, S/o- Ram Prasad, R/o Vill.- Ora, P.O.- Kanbehari, P.S. and Dist.- Aurangabad.
26. Arvind Kumar Thakur, S/o- Om Prakash Thakur, R/o Vill.- Bharwar, P.O.- Belsara, P.S.- Muffasil Aurangabad, District- Aurangabad.
27. Santosh Kumar, S/o- Ram Chandra Yadav, R/o Vill.- Bisambhar Bigha Kusi, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
28. Naresh Kumar Ravi, S/o- Mahavir Prasad, R/o Vill.- Shahpur Ambedkar Nagar, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
29. Sunila Kumari Sen, D/o- Jagjiwan Ram, R/o Vill.- Shahpur Ambedkar Nagar, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
30. Mahesh Kumar Ravi, S/o- Mahavir Ram, R/o Vill.- Shahpur Ambedkar Nagar, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
31. Ajay Kumar, S/o- Madhav Singh, R/o Vill- Tetariya, P.O.- Chauriya, P.S.- Muffasil Aurangabad, District- Aurangabad.
32. Madhubala Kumari, Indrajit Sharma, R/o Vill.- Naur, P.O.- Naur, P.S.- Nabinagar, District- Aurangabad.
33. Ram Prawesh Ram, S/o- Dukh Bhajan Ram, R/o Vill- Bus Padaw Gandhi Maidan Harijan Colony, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
34. Arjun Kumar Mehta, S/o- Suryadev Mehta, R/o Vill.- Ora, P.O.- Kanbehari, P.S.- Muffasil Aurangabad, District- Aurangabad.
35. Randhir Kumar, S/o- Phaudar Yadav, R/o Vill.- Ora, P.O.- Kanbehari, P.S.- Muffshil Aurangabad, District- Aurangabad.
36. Arvind Kumar, S/o- Yadunandan Yadav, R/o Vill.- Gangati, P.O.- Aurangabad, P.S. Aurangabad, District- Aurangabad.
37. Anil Kumar Singh, S/o- Birendra Singh, R/o Vill- Ajaniya, P O.- Khadiha, P.S.- Simra, District- Aurangabad.
38. Ravi Kant Singh, S/o- Suresh Singh, R/o Vill.- Sudi Bigha, P.O.- Deo, P.S.- Deo, District- Aurangabad.
39. Shivpujan Kumar, S/o- Ramgati Ram, R/o Vill- Mahuawan, P.O.- Mahuawan, P.S.- Mahuawan, District- Aurangabad.
40. Sunil Kumar Singh, S/o- Birendra Singh, R/o Vill- Ajaniya, P.O.- Khadiha, P.S.- Simra, District- Aurangabad.



- 41. Sanjay Kumar, S/o- Sikandar Ram, R/o Vill.- Dani Bigha, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
- 42. Manoj Kumar Thakur, S/o- Rajendra Thakur, R/o Vill- Gangati, P.O.- Aurangabad, P.S.- Town Aurangabad, District- Aurangabad.
- 43. Ramesh Kumar, S/o- Nandu Thakur, R/o Vill- Gangati, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
- 44. Kishun Yadav, S/o Saguni Yadav, R/o Vill.- Pandaypur, P.O.- Aurangabad, P.S.- Muffshil Aurangabad, District- Aurangabad.
- 45. Jitendra Kumar Singh, S/o- Ranvir Pratap Singh, R/o Vill.- Gupteshwar Lodge, G.T. Road, P.O.- Aurangabad, P.S.- Aurangabad, District- Aurangabad.
- 46. Sanjay Kumar Yadav, S/o- Byas Yadav, R/o Vill.- Bhora Bigha, P.O.- Khadiha, P.S.- Aurangabad, District- Aurangabad.
- 47. Suneel Kumar, S/o- Kesho Ram, R/o Vill.- Virat Mohalla, P.S.- Aurangabad Town, District- Aurangabad.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
- 2. The Additional Secretary, General Administration Department, Government of Bihar, Patna.
- 3. The District Magistrate, Aurangabad.
- 4. The Bihar Staff Selection Commission, Veterinary College, Patna through its Secretary.
- 5. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna.
- 6. The Secretary, Bihar Staff Selection Commission, Patna, Veterinary College, Patna.
- 7. The Joint Secretary, Bihar Staff Selection Commission, Patna, Veterinary College, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Advocate
For the State	:	Mr. Dhurendra Kumar (AC to GP-5)
For the BSSC	:	Mr. Satyam Shivam Sundaram, Advocate
		Mr. Ankit, Advocate
		Mr. Aman Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT



Date : 21-01-2026

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the Bihar Staff Selection Commission.

Re:- I.A No. 1 of 2025

Learned counsel for the petitioners seek permission to withdraw this interlocutory application.

2. Learned counsel for the respondents have no objection for the same.

3. As such, the present I.A. No. 1 of 2025 stands dismissed as withdrawn.

Re:- C.W.J.C No. 13874 of 2024

The present writ petition has been filed for issuance of an appropriate writ(s)/order(s)/direction(s) to the respondent authorities for the following relief/s:-

“I. To quash the Memo No.- 2874 dated 30.08.2024, issued by the Joint Secretary, Bihar Staff Selection Commission, Patna, so far it relates to the examination which has been scheduled on 15.09.2024, whereby and whereunder, for filling up class-IV posts in the different departments of different districts of the State, as one time measure, has been



scheduled excluding the district of Aurangabad that too without assigning any reason to the applicants of Aurangabad district.

II. To direct the respondents, especially respondent District Magistrate, Aurangabad to send the list of existing vacancies of Class-IV post of all the departments in the district including the Collectorate, Aurangabad to the General Administration Department, Government of Bihar, Patna so that the Bihar Staff Selection Commission takes the examination of all those applicants who have filled-up their application forms along with applicants of other district of Bihar on 15.09.2024.

III. To restrain the Bihar Staff Selection Commission, Bihar, Patna from conducting the examination of applicants of other districts of the State which is scheduled to be held on 15.09.2024 till pendency of this writ application.

IV. And for any other relief(s) as per the facts and circumstances of this case.”



2. Learned counsel for the Bihar Staff Selection Commission raised a preliminary objection and submits that the entire writ petition has become infructuous due to the reason that examination which was scheduled to take place on 15.09.2024 has become completely infructuous and as such, no relief could be granted to the petitioners.

3. Learned counsel for the petitioners submit that since, writ petition is pending therefore, it is well within the power of this Hon'ble Court to decide this issue and it is necessary and just in the interest of justice. Counsel submits that the writ petitioners who are total 47 in numbers was interested to be appointed against sanctioned and vacant Class-IV post in the district of Aurangabad in different departments. And they all have participated through an Advertisement no. 1 of 2009 dated 11.11.2011 which was issued under the signature of District Magistrate, Aurangabad inviting applications from the eligible candidates so that a panel for making appointment on Class-IV post be prepared. Counsel further submits that the petitioners along with others filled up the form and after filing of the applications, scrutiny of their applications took place by the district authority, Aurangabad and after verification of the same, panel was prepared for appointment on Class-IV post in the



various departments of district of Aurangabad including the Collectorate of Aurangabad in the year 2013 in which the name of total 9411 applicants were there. He further submits that after preparation of the said panel, the District Administration, Aurangabad has appointed about 500 persons from the above said panel in different departments of the district of Aurangabad. However, petitioners for one or other reason could not be appointed. Counsel submits that several writ petitions were filed for their grievances before this Hon'ble Court. And this Hon'ble Court *vide* order dated 26.07.2019 passed in C.W.J.C. No. 10967 of 2018 with analogous cases disposed off the same directing the Collector, Aurangabad to initiate a process of selection for appointment of Class-IV employees in terms of Bihar Group D (Recruitment and Service Conditions) Rules, 2009, which was enforced w.e.f. 26.03.2010. Counsel submits that due to non-compliance of the said order dated 26.07.2019, M.J.C No. 72 of 2021 was filed.

4. Learned counsel for the petitioners further submits that during pendency of the said contempt petition, an advertisement has come which is Annexure-P/4 dated 01.04.2023 at the level of Bihar Staff Selection Commission, Patna. Counsel submits that in the light of the said



advertisement, the petitioners have to filled up the form district wise and after scrutiny district wise, the same has to be recommended before the commission. Counsel for the petitioners put emphasis of this Court on the part of the advertisement which is Annexure-P/4 and submits that it has been stated in the said advertisement that “आयोग द्वारा परीक्षोपरांत संबंधित जिला से प्राप्त रिक्तियों में जिलावार अनुशसा प्रेषण की कार्रवाई की जायेगी।”. Counsel further submits that in the light of the said advertisement, the petitioners who have filled up the form district wise for whom permission to appear in the examination was necessary to be taken place. But, they were not permitted to participate in the examination as the admit cards have not been issued to them. Counsel submits that when the date of the examination was published, then the present writ petition has been filed with the specific relief that the petitioners be permitted to participate in the examination. He submits that a letter which has been issued at the level of Joint Secretary, B.S.S.C., Patna which is impugned here i.e. Memo No. 2874 dated 30.08.2024 (Annexure-P/1), indicates that in the said notice, the name of Aurangabad district has not been figured and this creates cause of action for the petitioners to immediately move before this Hon’ble Court. Counsel further submits that



vide order dated 19.06.2023 passed in M.J.C. No. 72 of 2021 with analogous cases (Annexure-P/7), it was the specific pleading of the State that “*all those persons who were empanelled in the District of Aurangabad, their cases have already been referred to the Bihar Staff Selection Commission for the needful and as such, the contention of the petitioner that they are ineligible to apply is unfounded*”. And in view of the above submission put forward by the learned State counsel, the said M.J.C petition was disposed of. Counsel submits that the order has been passed in M.J.C petition on 19.06.2023, whereas, Annexure-P/1 has been published on 30.08.2024. He submits that the petitioners have genuine cause and therefore, with regard to vacancy position an RTI was demanded and *vide* Annexure-P/11 it has come that till 13.03.2024, total 102 vacancies are there in Class-IV post in the district of Aurangabad. In this contention, counsel for the petitioner submits that in-spite of vacancy available as per the RTI and the pleadings made by the learned State counsel in the M.J.C petition, petitioners are entitled to participate in the examination. He further submits that though, examination has already been conducted, even then, it is well within the power of the Court to direct the respondent authorities to conduct the



examination for the existing vacancies, as prior to examination, the writ petition was already pending before this Hon'ble Court.

5. Learned counsel for the State on the other hand opposes the petitioners' case and submits that the petitioners have basically no case at all, due to the reason that admittedly, all petitioners were the candidates who participated in the previous published Advertisement No. 1 of 2009 for appointment in Class-IV post under Aurangabad district. He submits that it was already decided unanimously in the meeting of District Level Class-IV Selection Committee held on 31.03.2018, that all the vacancies available till date will be filled up by appointing 178 suitable candidates selected from the previously published panel and the tenure of the said panel will not be extended further. He further submits that the process of appointment has already been completed and the vacancy in view of the Advertisement no. 1 of 2009 has already been exhausted. And therefore, those persons who are demanding their claim by virtue of Advertisement no. 1 of 2009, there is no vacancy for them and hence, the relief to the petitioners is at all not maintainable and the present writ petition is fit to be dismissed. In support thereof, learned counsel for the State has annexed Annexure-R/2 in the counter affidavit, wherein it is



indicated that the vacancy position was 178 and they shall be appointed by virtue of the same. And in this regard, the petitioners could not be permitted to participate as, there is no vacancy exists for them.

6. Learned counsel appearing for the Bihar Staff Selection Commission submits that whatever be argued by the State, in addition to that, it is also relevant to submit that the Bihar Staff Selection Commission conducts examination and recommends the name of successful candidates to the concerned department of Government of Bihar. In pursuant to advertisement dated 31.03.2023 and in the process of selecting the candidates, the commission *vide* Memo No. 1080/Aa dated 19.03.2024 sought information district wise from the District Magistrate in required format for selecting the candidates which was replied *vide* Letter No. 323/Estt. dated 09.04.2024 by the concerned District Magistrate, Aurangabad, wherein it will appear that there is no vacancy for the concerned post in the concerned district for Advertisement No. 1 of 2009 (Annexure-R 7-9/A series). Counsel further submits that the writ petition has been filed with regard to vacancy of Class-IV post under the Aurangabad district and as per the information received under RTI and letter No. 585/Estt. dated 15.09.2023, earlier



explanation has been sought for from the office of the answering respondents from the concerned District Magistrate and *vide* Letter No. 662/Estt. dated 11.09.2024 (Annexure- R 7-9/B series), the concerned authority replied that the vacancies for the said post are of current period (i.e. after 31.03.2018), whereas, with respect to Advertisement no. 1 of 2009, appointment has been made and there is 0 (zero) vacancy against the said Advertisement no. 1 of 2009.

7. Learned counsel for the Bihar Staff Selection Commission further submits that it is an admitted position that the application was filled up by the petitioners before the District Magistrate within the district and recommendation has not been made by the District Magistrate, Aurangabad before the Commission, on the ground that there is no vacancy exists against the said Advertisement no. 1 of 2009. Therefore, there is no question of taking examination of all such type of petitioners we are related and demanding their claim by virtue of their name empanelled towards the Advertisement no. 1 of 2009. In this background, he submits that there is no case of the petitioners at all. In addition to that, counsel submits that with regard to the said vacancy of 2023, entire process has been completed, examination takes place, result has come and the



appointment has been made. And the relief as prayed by the petitioners has already become infructuous, at the cost of their repetitions which they have raised on the ground of maintainability.

8. In response thereof, learned counsel for the petitioners raised contention of two materials. The first material is Annexure- R/2 on which the State relied i.e. the meeting which has been held in the year 2018 and subsequently, the stand taken by the State before the M.J.C court. He submits that it is due to the stand of the State taken, the entire problem has created. In the entire vacancy, it is nowhere mentioned about Advertisement no. 1 of 2009. Therefore, he submits that still today, the petitioners have rights to participate and that's why a direction be given to the Bihar Staff Selection Commission to conduct a fresh examination for the present petitioners.

9. Upon hearing the parties and going through the entire pleadings as well as the materials on record, it transpires to this Court that the basis of the right accruing to the petitioners is Advertisement no. 1 of 2009, and the genesis of the right for the petitioners which is Advertisement no. 1 of 2009, once exhausted and vacancy ended then, in no case, the Bihar Staff Selection Commission in the light of advertisement of 2023



which has been published following the judgment passed in case of *Kapil Kumar & Ors. Vs. The State of Bihar & Ors. with other analogous cases* reported in (2020) 1 PLJR 287. It transpires to this Court that para 29 of the said judgment is very much relevant which is quoted as under:-

“29. These writ applications are accordingly disposed of with specific direction to the respondents, particularly, the Additional Chief Secretary/ Principal Secretary, General Administration Department, Government of Bihar, Commissioner, Madadh 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.”

10. In the light of the reasonings that the entire right accrues to the petitioners by virtue of Advertisement No. 1 of 2009, and that all 178 vacancies corresponding to the said advertisement have already been exhausted, as reflected in



Annexure- R 7-9/A series, the scanned copy of part of the said advertisement is being extracted in this judgment hereunder:-

(12) 998 97

कार्यालय परिचारी/परिवारी (विशिष्ट) से संबंधित प्रपत्र

का नाम- औरंगाबाद

प्रकाश की तिथि :- 01/2009

सूचनाय शैक्षणिक योग्यता :- मैट्रिक/गन-मैट्रिक

1. कोटिबार रिक्तियों की विवरणी :-

कोटि	कुल रिक्तियों की संख्या	दिनांक-18.12.2019 तक की गयी नियुक्तियों की संख्या	शेष रिक्तियों की संख्या
अनारक्षित	250	250	0
अनारक्षित (महिला)	29	29	0
आर्थिक रूप से कमजोर वर्ग	0	0	0
आर्थिक रूप से कमजोर वर्ग (महिला)	0	0	0
पिछड़ा वर्ग	35	35	0
पिछड़ा वर्ग (महिला)	28	28	0
अत्यंत पिछड़ा वर्ग	76	76	0
अत्यंत पिछड़ा वर्ग (महिला)	10	10	0
अनुसूचित जाति	59	59	0
अनुसूचित जाति (महिला)	5	5	0
अनुसूचित जनजाति	2	2	0
अनुसूचित जनजाति (महिला)	0	0	0
पिछड़े वर्गों की महिला	0	0	0
कुल	494	494	0

2. दिव्यांग अभ्यर्थियों के रिक्तियों की विवरणी

श्रेणी	कुल रिक्तियों की संख्या	दिनांक-18.12.2019 तक की गयी नियुक्तियों की संख्या	शेष रिक्तियों की संख्या
चक्षु दिव्यांग	3	3	0
भ्रूजधिर दिव्यांग	1	1	0
घनंत दिव्यांग	5	5	0
मनोविकार दिव्यांग	0	0	0
बहु दिव्यांग	0	0	0
कुल	9	9	0

3. स्वतंत्रता सेनानी के आश्रित श्रेणी के लिए रिक्तियों संख्या

जिला नवाधिकारी,
औरंगाबाद।

11. The above extracted part of the advertisement indicates that upto 18.12.2019, vacancy position had become 0



(zero) and therefore, only due to this reason, the present writ
petition is hereby dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	28/01/2026
Transmission Date	NA

