IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2119 of 2023

CNR No. BRHC010995702022

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Jitendra Kumar Son of Late Parikshan Ray Resident of Ward No.- 04, Village- Sirauli, Police Station- Riga, District- Sitamarhi.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Police), Department, Government of Bihar, Patna.
2. The Principal Secretary, Home (Police), Department, Government of Bihar, Patna.
3. The Collector, Sitamarhi.
4. The Circle Officer, Riga, District- Sitamarhi.
5. The Officer-in-charge, Riga Police Station, District- Sitamarhi.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate
For the Respondent/s : Mr. Kumar Gangesh Gunjan, GP-7
Ms. Aishwarya Riti, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 27-10-2026

Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner has filed the present writ petition for following relief/s :-

> *"…….That this application is being filed for issuance of writ/writs, order/orders, of direction/directions to the respondents to appoint the petitioner on the post Choukidar in place of his father Parikshan Ray who has taken voluntary retirement and nominated the petitioner to be appointed on the post of Choukidar in light of the notification bearing Memo No. 1896 dated 05.03.2014 issued by the Additional Secretary, Home (Police)*

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Department, Government of Bihar, Patna"

3. Learned counsel for the petitioner submits that the basis of the relief sought by the petitioner is the notification issued by the Home Department, Government of Bihar, namely, the "बिहार चौकिदार संवर्ग संशोधन (नियमावली) 2014". In terms of the said Rule, the father of the petitioner had requested the State authorities for appointment of the petitioner in his place to the post of Chaukidar. Learned counsel further submits that the petitioner had filed a representation in this regard, but the same was not disposed of. Hence, the present writ petition has been filed.

4. Learned counsel appearing for the State submits that the issue involved in the present writ petition has already been adjudicated upon by the Hon'ble Division Bench of this Court in LPA No. 508 of 2022 (Devmuni Paswan Vs. The State of Bihar and Ors.), vide judgment dated 25.02.2023, whereby the Hon'ble Division Bench has held that Rule 5 (7) of the Bihar Chaukidar (Appointment) Rules, 2014, is violative of Articles 14 and 16 of the Constitution of India and has accordingly set aside the said provision. Learned counsel for the State further submits that the aforesaid judgment of the Hon'ble Division Bench has been challenged before the Hon'ble Supreme Court

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in ***Special Leave to Appeal (C) No(s) SLP No. 18983 of 2023 (Bihar Rajya Dafadar Chaukidar Panchayat Vs. State of Bihar and Ors.)***.

5. For better appreciation of the case, this Court feels it necessary to quote the relevant paragraph 12 and 17 of the judgment dated 25.02.2023 passed by the Hon'ble Division Bench in LPA No. 508 of 2022, as under :-

> *"12. Furthermore, it appears that the aforesaid '2014, Rules' is in violation of Articles 14 and 16 of the Constitution of India because post of Chaukidar in the State of Bihar is a public post. If any single public post is required to be filled up in a State or its organization, such selection and appointment must be in consonance with Articles 14 and 16 of the Constitution. Even after 75 years of independence, the States are violating the constitutional mandate by not following Articles 14 and 16 of the Constitution insofar as filling up of public post in the State/organization is concerned.*
>
> *17. Hence, this Court is of the view that the proviso to Rule 5 (7) of '2014, Rules' which reads as under:*
>
> **परंतुक–
>
> (क) चौकीदार सवंर्ग के कर्मचारी अपनी वार्धक्य सेवानिवृत्ति की तिथि से कम से कम एक माह पूर्व के प्रभाव से स्वैच्छिक सेवानिवृत्ति एव चौकीदार पद पर अपने द्वारा नामित किसी आश्रित को नियोजित करने के लिए आवेदन कर सकेगा।
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> (ख) सामान्य प्रशासन विभाग द्वारा समय - समय पर अवधारित न्यूनतम एवं अधिकतम उम्र–सीमा संबंधी प्रावधान उन पर लागू रहेगा।
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> (ग) स्वैच्छिक सेवानिवृत्ति के पश्चात् नियुक्त व्यक्ति के आश्रित को इस परन्तुक का लाभ अनुमान्य नहीं होगा।
>
> (घ) स्वैच्छिक सेवानिवृत्ति का इच्छुक चौकीदार संवर्ग के व्यक्ति को सेवानिवृत्ति की अपनी

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इच्छित तिथि से कम से कम एक माह पूर्व अपने पदस्थापन जिला के जिला पदाधिकारी का अपना आवेदन देना होगा।

*** is contrary to the express provisions of the Constitution being violative of Articles 14 and 16 of the Constitution and, accordingly, the aforementioned provision is set aside. Hence it could not further the cause of the appellant and the appellant could not claim any benefit under Rule 5 (7) of '2014, Rules'.*

5.1 The judgment dated 25.02.2023 passed by the Hon'ble Division Bench in L.P.A. No. 508 of 2022 has been challenged before the Hon'ble Supreme Court in ***Special Leave to Appeal (C) No(s) SLP No. 18983 of 2023 (Bihar Rajya Dafadar Chaukidar Panchayat Vs. State of Bihar and Ors.)***. The Hon'ble Supreme Court, vide order dated 19.03.2025, has declined to interfere with the impugned judgment and order passed by the High Court, i.e., the judgment dated 25.02.2023 passed in LPA No. 508 of 2022.

6. In view of the aforesaid position, the basis of the claim of the petitioner no longer survives. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	28/10/2026
Transmission Date	NA

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