

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18781 of 2024

Sanjay Kumar Singh Son of Sri Harinarayan Singh Resident of Village Ward no. 09, Baghmari Harnahia and P.S. Sursand, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the principal secretary Home Department, Government of Bihar at Patna.
2. The District Collector-Cum-Chairman, Compassionate Appointment Committee, District-Sitamarhi.
3. The Additional Collector, Sitamarhi.
4. The Superintendent of Police, District-Sitamarhi.
5. The Deputy Development Commissioner, District-Sitamarhi.
6. The Deputy Collector (Establishment), District-Sitamarhi.
7. The In-Charge Officer, General Administration Section, District-Sitamarhi.
8. The Sub-Divisional Officer, Belsand, District-Sitamarhi.
9. The Sub-Divisional Officer, Pupri, District-Sitamarhi.
10. The Sub-Divisional Officer, Sitamarhi, District-Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Sr. Advocate Mr. Bhola Kumar, Advocate
For the Respondent/s	:	Mr. Swapnil Kumar Singh, AC to GP-19

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 20-04-2026 Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application for the following reliefs :-

“A. For issuance of a Writ of mandamus or any other appropriate Writ commanding the authorities concerned to issue appointment letter in the terms of the selection-



list prepared in the terms of Rule-5, Sub-Rule (Ka) of the Bihar Chaukidari Cadre (Amendment) Rules, 2014.

B. For passing any other order/direction/s or appropriate Writ/s in the facts and circumstances of the instant Case.”

3. The case of the petitioner in brief is that his father who was working as a *Chaukidar*, prior to his retirement on 28.2.2021 filed an application on 28.11.2020 recommending the petitioner for his appointment in terms of the Bihar Chaukidar Cadre (Amendment) Rules, 2014 which had the provision for appointment of a Chaukidar on compassionate ground.

4. It is the case of the petitioner that along with others the case of the petitioner came to be considered by the Selection Committee headed by the District Magistrate, Sitamarhi in its meeting held on 4.6.2022. The name of the petitioner figures at serial no.18 of the minutes of the said meeting wherein the Committee recommended him for appointment.

5. Bereft of unnecessary details, it may be mentioned here that the aforesaid Rules of 2014 came for consideration by a Division Bench of this Court in the case of *Devmuni Paswan vs. The State of Bihar & Ors.*; 2023 (2) PLJR 425 wherein this Court held that the provisions contained therein is contrary to the express provisions of the Constitution and holding the same



to be violative of Articles 14 and 16 of the Constitution, the Rules were set aside.

6. It may be mentioned here itself that the said judgment was challenged in the Hon'ble Supreme Court in SLA (C) no. 18983 of 2023 [Bihar Rajya Dafadar Chaukidar Panchayat (Magadh Division) vs. State of Bihar & Ors.] and by order dated 19.3.2025, the Hon'ble Supreme Court dismissed the special leave petition.

7. It is submitted by learned Senior Counsel appearing for the petitioner that the Committee having considered and recommended for appointment of the petitioner in its meeting on 4.6.2022 itself on which date the Rules of 2014 were in existence and the same having been set aside much later on the passing of the judgment in the case of Devmuni Paswan (*supra*) on 25.2.2023, the judgment would not have a retrospective application on the case of the petitioner and as such the respondents be directed to issue the letter of appointment appointing the petitioner on the post of *Chaukidar*.

8. It may be stated here that in the opinion of the Court, the contention of learned Senior Counsel for the petitioner has no force and is fit to be rejected. On a Rule being declared unconstitutional the effect would be of it being *void ab*



initio and thus there can be no question of the same having been set aside prospectively.

9. The Court having held the Rules of 2014 to be violative of Articles 14 and 16 of the Constitution and having set aside the same, no relief as prayed by the petitioner can be granted.

10. The application is dismissed.

(Partha Sarthy, J)

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