

Patna High Court - Orders

Chhotan Prasad & Ors. vs The State Of Bihar & Ors on 17 September, 2014

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.89 of 2013

In

Civil Writ Jurisdiction Case No. 8713 of 2012

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1. Madho Thakur, son of Khurduni Thakur, resident of Village-Ratansarai, P.O.+P.S.-Barauli, District-Gopalganj.

2. Vijay Thakur, son of Pasupati Thakur, resident of Village-Ratansarai, P.O.+P.S.-Barauli, District-Gopalganj.

3. Birendra Kumar Pandey, son of Shri Byas Deo Pandey, Resident of Village-Kotawan, P.O.+P.S.-Barauli, District-Gopalganj.

4. Shakar Prasad, son of Shri Jhulan Prasad, Resident of Village-Kotawan, P.O.+P.S.-Barauli, District-Gopalganj.

5. Devendra Giri, son of late Raghunath Giri, Resident of Village-Malikana, P.O.+P.S.-Barauli, District-Gopalganj.

6. Dhruv Deo Singh, son of late Bikrama Singh, Resident of Village+P.O.- Rupanchhap, P.S.-Barauli, District-Gopalganj.

7. Lal Bahadur Prasad, son of Ambika Prasad, Resident of Village- Kotawan, P.O.+P.S.-Barauli, District-Gopalganj.

8. Raj Kishore Choudhary, son of Chander Choudhary, resident of Village- Mahodipur, P.O.-Rupanchhap, P.S.-Barauli, District-Gopalganj.

.... Petitioner/s Versus

1. The State Of Bihar.

2. Shri Amarjeet Sinha, The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna.

3. J.R.K. Rao, Chairman, Staff Selection Commission, Veterinary College, Patna.

4. Sri Parshuram Mishra, Secretary Staff Selection Commission, Veterinary College, Patna.

.... Respondent/s =====
with Miscellaneous Jurisdiction Case No.303 of 2013 IN Civil Writ Jurisdiction Case No. 9392 of

2012 =====

1. Manakdep Prasad Yadav @ Manakdeo Yadav S/O Shri Ram Ekbal Prasad Resident Of Village And P.O. Bisunpura, Police Station Sidhwaliya, District Gopalganj.
2. Pradeep Kumar Singh S/O Shri Mangal Singh Resident Of Village And P.O. Bagheji, Police Station Barauli, District Gopalganj.
3. Awadesh Kumar Roy S/O Shri Krishna Roy Resident Of Village And P.O. Sahar Kola, Police Station Basanpur, District Siwan.
4. Umesh Prasad Yadav S/O Ramdeo Prasad Yadav Resident Of Village And P.O. Sahajitpur, District Saran, Chapra.
5. Lalan Prasad @ Lalan Prasad Yadav S/O Late Bhuil Yadav Resident Of Village Samardah, P.O. Shaharkola, Via Basantpur, District Siwan.

.... Petitioner/s Versus

1. The State Of Bihar.
2. Shri Amarjeet Sinha, The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna.
3. J.R.K. Rao, Chairman, Staff Selection Commission, Veterinary College, Patna.
4. Sri Parshuram Mishra, Secretary Staff Selection Commission, Veterinary College, Patna.

.... Respondent/s =====
With Miscellaneous Jurisdiction Case No.443 of 2013 IN Civil Writ Jurisdiction Case No. 8151 of
2012 =====

1. Satyendra Kumar, son of Sri Suman Pandey, resident of Sitalpur Chakiya, P.S.-Sitalpur, District-Saran.
2. Kalindi Kumari, daughter of Chandra Deep Sharma, c/o Suman Pandey, resident of Sitalpur Chakiya, P.S.-Sitalpur, District-Saran.
3. Harendra Kumar Sinha, son of late Ram Chandra Sharma, r/o Mohalla- Chandmari Road, Street No.5, P.O.-Lohiya Nagar, P.S.-Kankarbagh, District-Patna.
4. Ajit Kumar Sharma, son of late Ram Chandra Sharma, C/o Mateshwari Bhawan, South Ram Krishna Nagar, P.S.-Ram Krishna Nagar, District- Patna.

5. Satyendra Kumar Shukla, son of late Sita Ram Prasad, Resident of LIG H/2/420, Hanuman Nagar, P.S.-Patrakar Nagar, District-Patna.
6. Rajesh Kumar Sharma, son of late Baijnath Prasad Singh, R/o Mohalla- West Jai Prakash Nagar, Mandir Road, P.S.-Jakkanpur, District-Patna.
7. Rajesh Kumar, son of Sri Jagdish Prasad, C/o Sujata Rikshaw, Jail Road, Gaya.

.... Petitioner/s Versus

1. The State Of Bihar.
2. Shri Amarjeet Sinha, The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna.
3. J.R.K. Rao, Chairman, Staff Selection Commission, Vetenary College, Patna.
4. Sri Parshuram Mishra, Secretary Staff Selection Commission, Vetenary College, Patna
Respondent/s ===== with
Miscellaneous Jurisdiction Case No.492 of 2013 IN Civil Writ Jurisdiction Case No. 9077 of 2012
=====

1. Braj Kishore Prasad S/O Sri Prahalad Singh R/O Village- Phulhara, Bazar, P.O- Bidupur (R.S), P.S- Raja Pakar, District- Vaishali.
2. Ramesh Kumar S/O Sri Keshwar Singh R/O Village P.O- Bahuara Via Bidupur (R.S),P.S- Raja Pakar, District- Vaishali.
3. Devendra Sharma S/O Late Siyaram Sharma R/O Kashipur, P.S- Bidupur, Distrit- Vaishali.
4. Aru Kumar Gupta S/O Sri Ganga Prasad Sah R/O Village- Phulhara, Bazar, P.O- Bidupur (R.S), P.S- Raja Pakar, District- Vaishali.
5. Satya Narayan Singh S/O Sri Jodhan Singh R/O Village- Phulhara, Bazar, P.O- Bidupur (R.S), P.S- Raja Pakar, District- Vaishali.
6. Babulal Roy S/O Sri Rameshwar Roy R/O Village- Kahipur Chak, Bii, P.O- Bidupur (R.S), P.S- Raja Pakar, District- Vaishali.
7. Birendra Kumar S/O Sri Basudeo Yadav R/O Village- Sri Rampur, P.S- Kariyadpur, P.S- Fatehpur, District- Gaya.

8. Vijay Kumar S/O Ram Autar Singh R/O Village- Guraju Bigha, P.O- Guraru, P.S- Konch, District- Gaya.

.... Petitioner/s Versus

1. The State Of Bihar

2. Shri Amarjeet Sinha, The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna.

3. Shri J.R.K., Chairman, Staff Selection Commission, Vetenary College, Patna.

.... Respondent/s =====
with Miscellaneous Jurisdiction Case No.576 of 2013 IN Civil Writ Jurisdiction Case No. 8713 of 2012 =====

1. Chhotan Prasad S/O Sri Rajendra Prasad Resident Of Village+ P.O- Lodipur, P .S- Paraiya, District- Gaya,

2. Bhagirath Mistri S/O Late Bashisth Mistri Resident Of Village- Badhauna, P.O- Kir Via Mau, Police Station- Koanch, District- Gaya.

3. Suryadeo Mistri S/O Late Raghuni Mistri Resident Of Village- Khajuri, P.S- Koanch, District- Gaya.

4. Ram Chandra Saw S/O Late Prayag Saw Resident Of Village- Rahuriya Verma, P.O- Munjhara, P.S- Goh, District- Aurangabad.

5. Sidheshwar Prasad S/O Late Kashi Mahto Resident Of Vill+ P.O- Gilani, P.S- Sare, District- Nalanda.

6. Surendra Kumar Sinha S/O Late Prayag Narayan Sinha Resident Of Village+ P.O- Gilani, P.S- Sare, District- Nalanda.

.... Petitioner/s Versus

1. The State Of Bihar

2. Shri Amarjeet Sinha, The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna.

3. Shri J.R.K., Chairman, Staff Selection Commission, Vetenary College, Patna.

4. Shri Parsuram Mishra, Secretary, Staff Selection Commission, Vetenary College, Patna.

.... Respondent/s =====
with Miscellaneous Jurisdiction Case No.750 of 2013 IN Civil Writ Jurisdiction Case No. 8785 of
2012 =====

1. Suresh Prasad Singh S/O Sri Tuleshwar Singh R/O Village - Telbigha (Bilandpur) P.O. Powa, Via
- Fatehpur, District - Gaya

2. Ashok Kumar Singh S/O Late Bulakan Prasad Singh R/O Village - Brahamasthan, P.O.
Bhokilapur, Police Station - Hilsa, District - Nalanda Petitioner/s Versus

1. The State Of Bihar

2. Shri Amarjeet Sinha, The Principal Secretary, Human Resources Development Department, Govt.
Of Bihar, Patna

3. Shri J.R.K. Rao, Chairman, Staff Selection Commission, Vetenary College, Patna

4. Shri Parsuram Mishra, Secretary, Staff Selection Commission, Vetenary College, Patna
Respondent/s =====
Appearance :

(In MJC No.89 of 2013)
For the Petitioner/s : Mr.
For the Respondent/s : Mr.
(In MJC No.303 of 2013)

For the Petitioner/s : Mr. Subhash Kumar For the Respondent/s : Mr. Anil Kr Uapdhay Sc20 (In
MJC No.443 of 2013) For the Petitioner/s : Mr. Subhash Kumar For the Respondent/s : Mr. Ashok
Kumar Keshri Aag11 (In MJC No.492 of 2013) For the Petitioner/s : Mr. Subhash Kumar For the
Respondent/s : Mr. V.M.K Sinha Aag13 (In MJC No.576 of 2013) For the Petitioner/s : Mr. Subhash
Kumar For the Respondent/s : Mr. Pawan Kr. Mishra Gp22 (In MJC No.750 of 2013) For the
P e t i t i o n e r / s : M r . F o r t h e R e s p o n d e n t / s : M r .

===== CORAM:
HONOURABLE MR. JUSTICE JAYANANDAN SINGH ORAL ORDER 3 17-09-2014 The order
passed on 6.4.2012 in CWJC No.6668 of 2012 was modified by this Court by order dated 31.7.2013
passed in MJC No.1110 of 2013. In the light of the said order, the Director, Primary Education has
passed orders contained in memo no.398 dated 25.3.2014. Grievance of the petitioners is that
earlier instruction issued by the Director, Primary Education contained in letter no.1128 dated
03.11.2011 was beyond the orders of the Apex Court. He submits that, even if under orders of the
Apex Court excess unfilled vacancies of physical trained teachers have to be shifted to Urdu subject,
but if sufficient number of Urdu candidates were not available to fill all the vacancies allotted to that
category after shifting, the remaining vacancies ought to have been transferred back to the category
of physical trained teachers.

Instead of doing this, the Principal Secretary through his said letter dated 03.11.2011 has directed the Commission to send back only 5% unfilled vacancies back to the physical trained category and transferred all remaining vacancies to general category. He submits that this was not the orders of the Apex Court and the Apex Court order was only in view of the fact that large number of Urdu candidates were available but corresponding number of vacancies were not available, whereas in physical trained category the posts were much more than required.

There may be some substance in the submission of learned counsel for the petitioner, but since this Court had disposed of the writ application only with a direction to the respondents to comply the orders of the Apex Court, this Court cannot hold them guilty of contempt on account of such extra exercise done by them. Petitioners are at liberty to challenge the said letter of the Principal Secretary dated 03.11.2011 as well the order of the Director, Primary Education, contained in said memo dated 25.03.2014, in an appropriate proceeding in accordance with law.

Since it is apparent from the said letter of the Principal Secretary dated 03.11.2011 itself that the Department has taken a decision to shift 5% of remaining vacancies back to the physical trained category, the Commission shall abide by this part of the direction of the Apex Court and do the needful, if they have not done it till now.

These contempt applications are disposed of.

(Jayanandan Singh, J) Arvind/-

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