

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3981 of 2022

1. Chandrabir Kumar Son of Ramchandra Prasad Mahto, Resident of Village and Post - Rahua, P.S. - Rosera, District - Samastipur, Pin - 848210 (Bihar).
2. Sanjay Kumar, Son of Sri Kapildeo Paswan, resident of Village and P.O. B.V.C. Patna - 14, P.S. Patna Airport, District - Patna, PIN - 800014.
3. Kundan Kumar, resident of Village - Chakbhikhi, P.O.- Purushottampur, P.S. Maniyari, District - Muzaffarpur, PIN - 842002.
4. Vikash Kumar, Son of Shri Shivdatta Mandal, resident of village - Jalpalpatti, Ward No. 15, P.O. and P.S. - Madhepura, District - Madhepura, PIN - 852113.
5. Abhishek Kumar, S/o Anil Kumar Choudhary, Address - Chaudhary Mansion, Lal Bahadur Shastri Path, New Paharpur, Police Colony, Anisabad, Patna. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, Animal and Fisheries Resources Department, Government of Bihar, Patna.
3. The Secretary, General Administration Department, Government of Bihar, Patna.
4. The Under Secretary, General Administration Department, Government of Bihar, Patna.
5. The Deputy Secretary of Government, Animal and Fisheries Resources Department, Government of Bihar, Patna.
6. The Director, Animal and Fisheries Resources Department, Government of Bihar, Patna.
7. The Bihar Technical Service Commission through its Chairman, Bailey Road, Patna.
8. The Chairman, Bihar Technical Service Commission, Bailey Road, Patna.
9. The Secretary, Bihar Technical Service Commission, Bailey Road, Patna.
10. The Under Secretary, Bihar Technical Service Commission, Bailey Road, Patna.
11. The Deputy Secretary, Bihar Technical Service Commission, Bailey Road, Patna. Respondent/s

Appearance :

For the Petitioner/s : Mr. Niranjana Kumar, Advocate
For the State : Mr. Shailesh Kumar, AC to GP 5
For the BTSC : Mr. Nikesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 22-03-2022



Heard learned counsel for respective parties.

In the instant petition, petitioners have prayed for the following reliefs:-

“(i) For issuance of an appropriate writ/writs, order/orders, Direction/Directions to direct the responsible respondent authorities to consider and declare the successful candidatures of the petitioners and other similarly situated persons for the post of Fisheries Extension Officer against 198 new vacant and sanctioned posts in the Animal and Fisheries Resources Department, Government of Bihar, Patna, by invoking "the Doctrine of Legitimate Expectation" for increasing in number of seats, because Advertisement No. 02 of 2021 has been given for only 136 posts rather 198 posts are also vacant and duly been sanctioned. It is expected form the State that whern the State is not taking the examination for the Post of the Fisheries Extension Officer for a longer time i.e. more than 23 years, then the existing vacancies must be filled up otherwise the right vested in these petitioners and similarly situated persons under Article 16 of the Constitution of India will be violated and also in pursuance of letter dated 25.06.2021 vide File No. 1513 and letter dated 13.09.2021 vide letter no. 1176 issued by the Special Secretary and the Director of the Animal and Fisheries Resources Department, Government of Bihar, Patna, respectively, in the advertised advertisement bearing Advertisement No. 02 of 2021, being the most eligible and suitable candidates by fulfilling each and every criteria of the Advertisement, whose names and registration numbers have not been declared or figured in the final result dated 19.02.2022 and the same is in the interest of department and also in pursuance of Bihar State Policy as



well as in pursuance of several Executive instructions and in compliance of catena of judgments of the Hon'ble Apex Court and also in accordance with the Bihar Animal and Fisheries Resource Service Recruitment (Amendment) Rules, 2020, wherein Rule-2(b) specifically stipulates that on the basis of work experience of the employees appointed on contract basis for the work of agriculture and fisheries sectors in the Fisheries Directorate and Subordinate offices or in other department of State Government or in the offices affiliated to the Government of Bihar and the same Rule-2(b) has been substituted at Rule-6 of the Bihar Animal and Fisheries Resource (Fisheries) Service Recruitment Rule, 2007.

(ii) For staying the operation of appointment process for the post of Fisheries Extension Officer in pursuance of advertisement no. 02 of 2020 during the pendency of this writ application.

(iii) And also for further issuance of any other writ/writs, order/orders, direction/directions for which the the petitioners are legally entitled to.”

Short question for consideration in the present petition is whether this Court has jurisdiction in directing selecting and appointing authority to take note of newly created vacancies after 05.05.2021 or not?

Pursuant to Advertisement No. 02 of 2021 notified on 06.04.2021 while assigning the last date of submission of application was 05.05.2021 to fill up 136 posts for Fisheries Extension Officer were notified. From 25.06.2021 till date there were newly created vacancies of Fisheries Extension Officer is stated to have



been created for about 198 posts. In this regard, there is a proposal sent to fill up along with earlier Advertisement dated 06.04.2021.

Learned counsel for the petitioner vehemently contended that selecting and appointing authority were required to add 198 newly created vacancies of Fishery Extension Officer to the Advertisement No. 02 of 2021 dated 06.04.2021.

In support of the aforesaid contention, learned counsel for the petitioner relied on Hon'ble Apex Court decision in the case of **Sandeep Singh vs. State of Haryana & Anr.** reported in **(2002) 10 SCC 549.**

Perusal of the Advertisement No. 02 of 2021 dated 06.04.2021 read with last date of submission of application as 05.05.2021 it is not appropriate to add newly created vacancies of 198 posts stated to be created on 25.06.2021, i.e., much later than last date of submission of application, i.e., 05.05.2021. Such adding of newly created posts would disrupt the eligibility criteria for the reasons that eligibility criteria is required to be fulfilled by the respective prospective applicants as on 05.05.2021. If 198 newly created vacant posts were required to be added in that event it is nothing but extending the last date of submission of application beyond 05.05.2021. Thus, the issue is purely policy decisions of the State Government.



The cited decision on behalf of the petitioner has no assistance to the matter for the simple reason that any adding of post in respect of advertisement is a policy decision as held by the Hon'ble Apex Court in the case of **P.U. Joshi & Ors. vs. Accountant General & Ors.** reported in **(2003) 2 SCC 632** and **Union of India vs Pushpa Rani & Ors.** reported in **(2008) 9 SCC 242.**

In the light of these facts and circumstances, this Court has no jurisdiction in directing the selecting and appointing authority to add newly created 198 post of Fisheries Extension Officer to the Advertisement No. 02 of 2021 issued on 06.04.2021 read with the last date of submission of application as 05.05.2021.

Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.03.2022
Transmission Date	N/A

