

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6995 of 2019

Based on the order of Honble the Chief Justice relating to effective monitoring of Filing vacancies on difft. posts in the Police forces in the state of Bihar and other States with reference to Writ Petition no. 183 of 2016 (Manish Kumar Vs. The Union of India) in Apex Court.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary.
2. The Principal Secretary, Home, Govt. of Bihar,
3. The Director General of Police, Govt. of Bihar.
4. Bihar Police Subordinate Services Commission, Patna through its Chairman.
5. Bihar Staff Selection Commission, Patna, through its Chairman.
6. Bihar Public Service Commission, Patna , through its Chairman.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.
For the State : Mr. P.N. Sharma, A.C. to A.G.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 02-08-2019 We have perused the affidavit of the Under Secretary, Home Department, Government of Bihar.

Looking to the law and order situation prevailing in the State and keeping in view the citizen police ratio as well as the recommendations made in this regard that have been discussed time and again by the Apex Court as well as by this Court, we find that the State machinery has virtually decided to proceed at a snail's pace which is *prima facie* unacceptable to the Court. The reason is that the affidavit proceeds to suggest the



filling up of the posts of 4586 Sub-Inspectors of police that are vacant in three phases stretching up to the year 2023. There is no explanation in the affidavit as to why this extended period of almost four years has been adopted to provide a force for the most essential function of the State of protecting life and property. We see no reason for the State to make a suggestion for making appointments spread over four years in respect of a requirement which, according to the State, exists today. Similar is the position in respect of other posts that have been indicated in the affidavit, including that of Constables about whom the averment is that there are 22655 posts of Constables and they would also be recruited in a similar phased manner, in two phases of ten thousand each and 2655 in the last phase, the calendar whereof also stretches up to 2023.

There are 2039 posts of Driver Constables available for direct recruitment. For them the time table has been prepared from December, 2019 stretching to May, 2021. Similar is the position in respect of other posts, but we have been unable to comprehend as to what was the rationality or even the difficulty in spreading over the recruitment on these posts in a phased manner for four years.

We say this because these are the vacancies which



are reflected to be existing as on date which will definitely be followed by vacancies in each coming year thereby increasing their number that would be required to be filled up. There is nothing in the affidavit to explain as to when will those vacancies be filled up in future. This cycle as projected in the affidavit is neither congenial for police administration nor does it any way come to the aid of the public at large who require the protection of the police every moment keeping in view the law and order and crime situation in the State.

We, therefore, want an explanation from the Chief Secretary and the Home Secretary, Government of Bihar, as to why and on what basis has the Government suggested this recruitment in a phased manner spread over for such a long time when this is one of the most urgent requirements and the most prominent sovereign duties of the State under the Constitution.

To our mind, the stifling of such process by the bureaucracy itself indicates apathy on the part of the Government in not giving priority to the basic needs of the citizens at large. This *prima facie* amounts to a failure on the part of the Government in not providing infrastructure or adequate facilities for recruitment in order to fulfill the immediate needs which are not only urgent, but fall within the



first constitutional duties of the State.

We have also been dealing with the cases of the Vigilance Department where appointments are being made on contract basis by engaging retired police personnel. This further adds to the manner in which the State Government is proceeding to deal with effective investigation in this State.

We, therefore, want a clear explanation from the Government as to why should this Court not treat the exercise as proposed by the Government to be denying the basic fundamental rights of the citizens to seek protection from the State which is a welfare State.

Let this affidavit be filed within ten days. The affidavit shall be that of the Chief Secretary and the Home Secretary and no one else.

As prayed, list on 13th of August, 2019.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

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