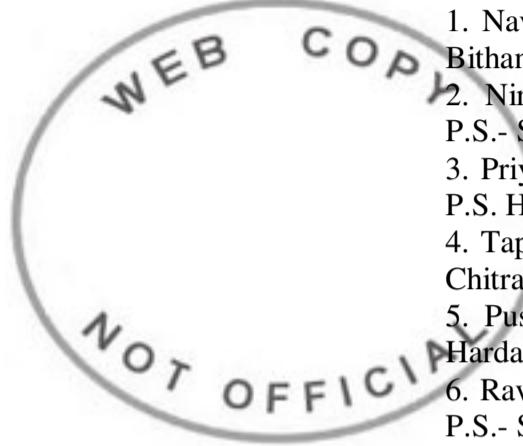


IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19665 of 2012



1. Navin Kumar S/O Late Jata Shankar Yadav R/O Village- Sihma, P.S.- Bithan, District- Samastipur
2. Niranjan Kumar S/O Anup Narayan Singh R/O Village- Mahabigha, P.S.- Silao, District- Nalanda
3. Priyadarshi Sachin Kumar S/O Yogendra Kumar R/O Village- Kabaiya, P.S. Harda, District- Purnea
4. Tapan Kumar Pandav S/O Shashi Bhushan Paswan R/O Mohalla- Purvi Chitragupta Nagar, Behind Jail, District- Begusarai
5. Pushpa Kumari D/O Janardan Pd. Yadav R/O Village- Kabaiya, P.S. Harda, District- Purnea
6. Ravi Ranjan S/O Rajendra Prasad R/O Mohalla B 10, Jaiprakash Nagar, P.S.- Shashtri Nagar, District Patna
7. Rajesh Kumar S/O Dinesh Pd. Yadav R/O Village Maruaha, P.S. Bharrahi Bazar, District Madhepura
8. Ranjit Pathak S/O Babban Pathak R/O Village Ratanchak, P.S. Hathwa, District Gopalganj
9. Suman Ranjan S/O Ram Nandan Prasad R/O Village Raisa, P.S. Chandi, District- Nalanda
10. Amit Kumar Singh S/O Arvind Kumar Singh C/O Ajit Kumar Singh, R/O Mohalla- Jai Mahavir Colony, Road No.1, Sandalpur, P.S. Bahadurpur, Mahendru, District- Patna
11. Avinash Gami S/O Sushil Kumar Gami R/O Hospital Road, D.M.C. Laheriasarai, P.S. Laheriasarai, District Darbhanga
12. Madhusudan Tiwari S/O Balram Tiwari R/O Village Noneya, P.S. Paharpur, District East Champaran
13. Ram Jivan Yadav S/O Late Musharu Yadav R/O Village Kumbhi, P.S. Cheriabariyarpur, District Begusarai
14. Kavi Shankar S/O Sureshwar Pd. Singh R/O Village Rahi South, P.S. Raj Nagar, District Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary-Cum-Commissioner Health And Family Welfare Department, Government Of Bihar, Patna
3. The Joint Secretary Health And Family Welfare Department, Government Of Bihar, Patna
4. The Director, Health Services, Government Of Bihar, Patna
5. The Director, State Health Society, Bihar, Patna
6. The Executive Director, State Health Society, Bihar, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Arbind Kumar
For the Respondent/s : Mr. Shail Kumari Sc15

CORAM: HONOURABLE MR. JUSTICE NAVIN SINHA
ORAL ORDER

2 19-12-2012

Heard learned counsel for the petitioners and

the State.

The respondents published an Advertisement inviting applications for the post of Physiotherapist and Occupational Therapist in District and Sub-divisional Hospitals on contract basis. It mentioned 24.12.2009 as the last date for submission of the applications. The Advertisement also stated that the panel prepared under the same shall remain valid till March, 2011 only. The respondents have published a notice on 1.10.2012 which reflects that the panel was prepared on 18.8.2010.

Counsel for the petitioners submits that the respondents cannot make appointments from the panel dated 18.8.2010 as it lost its efficacy and legality in March, 2011. It cannot be resurrected by an order dated 1.10.2012 modifying the Advertisement itself. It is the final panel in which the petitioners have not been included and thus the challenge laid out in the writ application.

Counsel for the State from the counter affidavit affirmed on 18.12.2012 (subsequent to the order dated 1.12.2010) submits that the document dated 1.10.2012 is not a final panel awaiting appointment. It is only a notice to certain applicants to appear before the committee for counselling and verification of the certificates and testimonials. The writ application is premature. It is next

stated "that counselling is in progress and the eligible candidate including the petitioners will be considered accordingly on basis of their merit and availability of vacancies".

It needs no further discussion that the respondents have taken an unequivocal stand in the proceedings before the Court on oath, that the petitioners are eligible to be called for counselling. That the final merit list shall be prepared after the counselling of the petitioners is held. Counselling and empanelment are undoubtedly different matters.

In view of the statement made in the counter affidavit, the Court does not consider it appropriate at this stage to go into the validity of the action of the respondents in light of the recitals contained in the Advertisement. That question is left open for consideration in any other appropriate case.

The writ application stands disposed.

P. Kumar/-

(Navin Sinha, J)