

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15768 of 2016**

---

---

1. Pankaj Kumar Pandey and Anr Son of Sri Shambhu Prasad Pandey, residents of Village Garar, P.O. Hussainganj, P.S. Hussainganj, Dist Siwan, Bihar.
2. Md. Naushad Alam, Son of Sri Md. Israil Alam, residents of Mohalla Khanquah Makhdoom Bagh, P.O. Bihar Sharif, P.S. Bihar Sharif, Dist Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary Law Department, Bihar, Patna
2. The Registrar General, Patna High Court, Patna.
3. The Registrar, Civil Court, Siwan.

... .. Respondent/s

---

---

**Appearance :**

For the Petitioner/s	:	Mr.Syed Arshad Alam, Advocate Mr.Kamran Fazal, Advocate Ms.Anjum Perveen, Advocate
For the Respondent/s	:	Mr.Sanjeet Kumar Singh, AC to AAG-6
For the Res. No. 2	:	Mr.Ashhar Mustaga, Advocate

---

---

**CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR**  
**ORAL JUDGMENT**

**Date : 22-06-2026**

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs:-

- (i) To direct the respondents to declare the result of the petitioners for the appointment on Class-IV post in the Civil Court, Siwan.
- (ii) To direct the respondents to publish the remaining list of 11 successful candidates selected for the appointment on Class-IV post in the Civil Court, Siwan.
- (iii) To grant any other relief/reliefs for which the petitioners are entitled under the



facts and circumstances of the case.

3. The brief facts which are necessary for adjudication of the present writ petition are that the petitioners being eligible for appointment, gave their respective applications for appointment on Class-IV post in the Civil Court at Siwan, in view of the Advertisement No. 02 of 2011 dated 14.09.2011 and 01 of 2013 dated 10.04.2013. The petitioners were called for interview and participated in the same on 21.05.2014. The final merit list was published on 08.07.2014, however, the name of the petitioners did not appear in the said final merit list. A waiting list of eleven candidates was sent for approval on 12.08.2014 by the District Judge, Siwan, wherein the name of the petitioners was placed at Sl. No. 2 and Sl. No. 10 respectively. The list, which was sent for approval is said to have been approved by this Hon'ble Court, however, the petitioners were not appointed by the concerned District Judge, Siwan. It is the case of the petitioners that despite them being eligible and their names being approved by this Hon'ble Court, the District Judge, Siwan, for the reasons best known to him, did not issue appointment letters to the petitioners. The petitioners kept on approaching the respondent authorities for consideration of their case, for being appointed on a Class-IV post in the Civil



Court, Siwan, however, no decision has been taken on the same.

**SUBMISSIONS ON BEHALF OF THE PETITIONERS**

4. The learned counsel for the petitioners submits that the petitioners were eligible, having all the requisite qualification and participated in the interview, however, were not selected for being appointed on a Class-IV post. He submits that even the waiting list has been approved by this Hon'ble Court vide letter dated 18/19.12.2014 issued under the signature of the Registrar (Administration), addressed to the District & Sessions Judge, Siwan. He further submits that the District Judge, Siwan vide letter dated 28.05.2015, addressed to the Registrar (Administration), Patna High Court, sought for permission to appoint the eleven candidates, who were in waiting list and whose approval was granted by the Hon'ble High Court vide letter dated 18/19.12.2014, even then no decision has been taken on the case of the petitioners and they have not been appointed. He further submits that the case of the petitioners deserves consideration in view of the judgment of Division Bench of the Hon'ble Patna High Court passed in C.W.J.C. No. 14136 of 2017 on 17.04.2018, wherein the Division Bench has observed that in such cases where the selection process, initiated in terms of Rule, 2009 of the Patna High Court Rules has not culminated in issuance of appointment



letter, all such process of selection should be cancelled and selection made afresh to all such posts in all such district in accordance 2017 Rules, however, the High Court gave liberty in such cases where the appointment letters have already been issued to the selected candidates joined or are on the process of joining duties and were complaints are received, the High Court may cause an enquiry and after following the due process may annul the selection, if found to be illegal else the appointments can be approved. He submits that in case of the petitioners, the selection process has culminated in their Selection and Recommendation, as much as that directions have been given by the Registrar (Administration) of this Hon'ble Court to the District Judge, Siwan, by approving the list of eleven wait listed candidates, which includes the petitioners herein. He submits that since the High Court has granted liberty, the petitioners ought to have been issued the appointment letters in terms of the said liberty, granted by this Hon'ble Court in C.W.J.C. No. 14136 of 2017.

5. The learned counsel for the petitioners submits that the case of the petitioners is of discrimination in as much as that similarly situated candidates have been appointed and the petitioners are running from pillar to posts, which is in complete



violation of the provisions contained in Article 14 and 16 of the Constitution of India. He further submits that even the vacancies were there and even today the vacancies are there, therefore, the petitioners can be considered on the vacancies available today in terms of the approval granted by this Hon'ble Court to the list of eleven wait listed candidates and their candidature can be considered even today.

**SUBMISSIONS ON BEHALF OF THE RESPONDENT**

**No. 2**

6. *Per contra*, the learned counsel appearing on behalf of the Patna High Court while referring to the counter affidavit submits that after completion of the selection process, the District Judge, Siwan, sent a list of 25 candidates along with a list of 11 wait listed candidates of Class-IV posts, who were selected in terms of Advertisement No. 01 of 2013. The select list of 25 candidates was approved by this Hon'ble Court vide its letter no. 29014 dated 01.07.2014 with a direction to rearrange the list of selected candidates, according to the roster points and keeping in view the Date of Birth of the candidates, for determination of their respective seniority in their own cadre/category. He further submits that after direction of this Hon'ble Court, a wait list of eleven candidates was prepared according to the merit of select list, giving a proper



representation of the candidates in their category as per the roster point and the name of the petitioner no. 1 finds figure at Sl. No. 6 while name of the petitioner no. 2 figures at Sl. No. 1. He further submits that after rearrangement, in the wait listed candidates, the name of petitioner no. 1 figures at Sl. No. 10 while the name of petitioner no. 2 figures at Sl. No. 2. Subsequently, the said list of eleven candidates, has been approved by this Hon'ble Court vide letter no. 67843 dated 18/19.12.2014 and later on, the learned District Judge, Siwan sent a proposal to this Hon'ble Court for grant of permission to appoint eleven candidates from the approved waiting list by this Hon'ble Court.

7. The learned counsel appearing on behalf of the Patna High Court further submits that vide resolution of the Hon'ble Standing Committee of this Hon'ble Court dated 30.06.2015, a decision was taken that till an interlocutory application is moved before the Hon'ble Supreme Court of India in the concerned case, seeking permission to make appointment against the vacancies existing in various subordinate courts in the State, duly explaining the hardships, that is being faced and the phenomenal time which is likely to take for making centralized appointment, till such time no steps shall be taken to



appoint such employees by the District Judge. In terms of the decision of Hon'ble Standing Committee of this Court dated 30.06.2015 vide letter no. 39280-316 dated 14.06.2015 issued under the signature of the In-charge Registrar General of the Hon'ble Patna High Court, a communication was sent to all the District and Sessions Judges that no steps be taken to appoint any employee by the District & Sessions Judges.

8. The learned counsel appearing on behalf of the Patna High Court further submits that subsequently vide letter dated 23.12.2015 issued under the signature of the Registrar General of this Hon'ble Court, all the District & Sessions Judges were directed to proceed in the matter of filling up of the vacant post of Class-IV staff in their respective judgeships in accordance with the Bihar Civil Court Staff (Class-III & Class-IV) Rules, 2009.

9. The learned counsel appearing on behalf of the Patna High Court further submits that a Hon'ble Division of this Court vide its judgment dated 17.04.2018 passed in C.W.J.C. No. 14136 of 2017 (**Bihar Yuva Adhiwakta Kalyan Samittee vs. Patna High Court and Ors.**), has been pleased to held that after coming into force of the amended rules for appointment of Class-III and Class-IV post in the Hon'ble Patna High Court in



2017 as under:-

“.....we have no hesitation in holding that all such process of selection should be cancelled and selection made afresh to the posts in all such districts in accordance to the new Rule of 2017. However, in such cases where the appointment letters have already been issued, the selected candidates joined or are on the process of joining duties, and where complaints are received, the High Court may cause an inquiry and after following the due process may annul the selection, if found to be illegal else the appointments can be approved, if the same are found to have been done in accordance with law as was prevalent on the date of initiating the process of appointment. As far as the other districts detailed at Annexure-P are concerned, we direct for cancellation of the ongoing selection process and to initiate the process of appointment afresh in accordance to Rules of 2017.

XXXX XXXX XXXX

We may clarify that the appointment already made under the Rules of 2009 i.e. where appointment orders have been issued and the selected candidates have joined service, as a right has accrued to the candidate by acceptance of joining, the same need not be cancelled or annulled nor can they be challenged only because the same



have been made under the 2009 Rules.”

10. The learned counsel appearing on behalf of the Patna High Court submits that after coming into force of 2017 Rules, all selection process which were initiated in terms of Rules 2009 have come to an end and advertisements were issued in terms of Rules, 2017. Appointments have already been made and subsequent selection process has also culminated in selection of candidates pursuant to advertisements issued in terms of Rules 2017.

**ANALYSIS AND CONSIDERATION**

11. Having heard the learned counsel for the parties and after going the records, it appears that an advertisement was issued by this Court for making appointment on Class-IV posts in the Civil Court in the district of Siwan vide Advertisement No. 02 of 2011 and 01 of 2011 dated 14.09.2011 and 10.04.2013 respectively. The petitioners being eligible, also participated in the selection process, however, when the final result was published, their names did not find figure in the final merit list. Subsequently, a wait list of eleven candidates was prepared and sent for its approval by the learned District Judge, Siwan. The said wait list of eleven candidates was approved by this Hon'ble Court and the same was communicated to the learned District



Judge, Siwan vide letter dated 18/19.12.2014, issued under the signature of the Registrar (Administration), Patna High Court, Patna. Subsequently, the learned District Judge, Siwan by his letter dated 28.05.2015, asked for permission from this Hon'ble Court to appoint eleven candidates of the waiting list, which was approved by this Hon'ble Court and a communication of the same, was sent vide letter dated 18/19.12.2014. Immediately thereafter, the Hon'ble Standing Committee of this Hon'ble Court took a decision on 30.06.2015, with regard to not taking any steps for appointment of the employees in any of the judgeships of Bihar. Subsequent thereto, a Division Bench of this Hon'ble Court vide its judgment dated 17.04.2018 passed in C.W.J.C. No. 14136 of 2017 (**Bihar Yuva Adhiwakta Kalyan Samittee vs. Patna High Court and Ors.**) directed that no further appointments will be made in terms of Rule 2009 and fresh appointments will be made in accordance with Rule 2017. However, it was observed that in such cases where the selection process has not culminated in issuance of appointment letter, all such process of selection should be cancelled and selection made afresh to the posts in all such districts in accordance with New Rule 2017. In the present case, although the petitioners were in waiting list at Sl. No. 10 and 2 respectively, however, no



appointment letter was ever issued to the petitioners by the concerned judgeships at Siwan.

12. This Court finds that in terms of the direction given by the Division Bench of this Hon'ble Court in the case of **Bihar Yuva Adhiwakta Kalyan Samittee vs. Patna High Court and Ors.** (supra), no appointments were to be made in terms of 2009 rules. Admittedly, the petitioners were an applicants in terms of 2009 Rules and were in the wait list of eleven candidates.

13. Further, the Hon'ble Supreme Court of India in a recent judgment reported in **2026 LiveLaw (SC) 282 passed in S.L.P. (C) No. 35896 of 2025 (State of Karnataka & Ors. vs. Santosh Kumar C.)** decided on 23.03.2026, in paragraph nos. 9, 11, 12, 14, 17 and 20, held as follows:-

“9. The above understanding also accords with the settled principle that inclusion of a candidate's name in a select list does not by itself confer an indefeasible right to appointment. A select list makes a candidate eligible for consideration in accordance with the governing rules. It does not create a vested right to claim appointment dehors the statutory framework. In *Shankarsan Dash v. Union of India*, this Court held that even where vacancies



exist, a candidate whose name appears in the select list does not acquire an indefeasible right to appointment, unless the relevant rules so indicate. Similarly, in *Rakhi Ray v. High Court of Delhi*, and *State of Orissa v. Rajkishore Nanda*, this Court has held that appointments must conform to the notified vacancies and the governing rules, and that a select list cannot be operated in a manner not contemplated by the statutory scheme.

11. Applying the aforesaid principles to the facts of the present case, we find ourselves unable to sustain the claim of the respondent. The respondent was not excluded from the recruitment process altogether. He participated in the selection pursuant to the notification dated 03.11.2011 and was in fact selected and appointed to the post of Assistant Commissioner of Commercial Taxes, Group A, under the same recruitment. He joined duty on 09.05.2022. His present claim, therefore, is not one arising from total nonselection, but a claim to appointment to another post, namely Assistant Commissioner, Karnataka Administrative Service, Group A, Junior Scale, on the ground that the selected candidate to that post did not undergo the mandatory medical examination,



police verification, or report for duty.

12. The foundation of the respondent's case is that, since the selected candidate did not complete the preappointment process, the vacancy must necessarily go to him as the candidate immediately next below. The respondent has also sought to place reliance on the circumstance that he had indicated preference for the said post. In our view, neither of these circumstances can, by themselves, create an enforceable right in his favour. Under the 1997 Rules, the relevant question is not merely whether a post remained unfilled in fact, but whether the Rules permit such post to be filled by reverting to the same select list and moving downward to another candidate. As already noticed, the 1997 Rules contain no such enabling provision.

14. There is yet another feature which dissuades us from accepting the respondent's claim as one of clear entitlement. Even on the material placed on record, including the respondent's own subsequent stand, his asserted position as the person exclusively entitled to the vacancy is not free from difficulty. The record indicates that there were candidates above the respondent, and the respondent himself



appears to have sought to explain why such candidates ought not to be considered. We do not propose to enter into the comparative position of such candidates, since none of them is before us. However, that circumstance itself is sufficient to show that the respondent's claim was not one of an automatic or self-evident right. A writ of mandamus directing consideration for appointment against such a vacancy could not have been issued on so uncertain a premise.

17. The observation of the High Court that the principle that inclusion in the select list does not confer a right to appointment would not apply because the Government had already decided to appoint, also does not commend acceptance. The decision of the Government to fill the notified vacancies cannot be equated with creation of a right in favour of every candidate below the selected candidate to claim automatic substitution in the event of non-joining. The right, if any, must arise from the Rules themselves. In the absence of any provision in the 1997 Rules enabling such substitution, the respondent could not claim appointment merely because one selected candidate did not complete the preappointment process.



20. In our considered view, therefore, the impugned judgment cannot be sustained. The Tribunal was right in holding that the 1997 Rules do not contemplate preparation or operation of any additional or waiting list, and that a post left unfilled on account of noncompletion of pre-appointment formalities or nonjoining by a selected candidate could not be claimed by the respondent as of right from the same selection process. The High Court erred in quashing the communication dated 27.06.2022 issued by DPAR and the order dated 13.10.2023 passed by the Tribunal.”

14. Considering the factual aspect of the case, submissions made by the parties and the judgment of the Hon’ble Division Bench of this Court in the case of *Bihar Yuva Adhiwakta Kalyan Samittee vs. Patna High Court and Ors.* (supra) and the Hon’ble Supreme Court of India in the case of *State of Karnataka & Ors. vs. Santosh Kumar C.* (supra), this Court has no hesitation in holding that the petitioners does not deserve to be selected at this stage in terms of advertisement issued in terms of 2009 Rules. The petitioners have got no vested right to be appointed on the post, even though they were



in the waiting list.

15. The writ petition filed by the petitioners deserves to be dismissed and is accordingly dismissed.

16. Pending applications, if any, shall also stand disposed of.

**(Ritesh Kumar, J)**

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2026
Transmission Date	

