

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6805 of 2014

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1. Raj Kumar Nath Tiwari Son Of Late Uma Shankar Nath Tiwari Resident Of Village Malkauli, Ward No. 1, Police Station Bagaha, District West Champaran.
 2. Narayan Ram Son of Late Lagan Ram Resident of Village Koeri Tola, Police Station Bettiah, District West Champaran.

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, General Administration Department, Bihar, Patna.
3. The Principal Secretary, Water Resources Department, Sicha Bhawan, Patna.
4. The Chief Engineer, Water Resources Department, Balmiki Nagar, District West Champaran.
5. The Superintending Engineer, Tirhut Canal Circle, Bettiah, West Champaran.
6. The District Magistrate, Bettiah, District West Champaran.
7. The Executive Engineer, Don Canal Division, Ram Nagar, West Champaran.
8. The Executive Engineer, Tirhut Canal Division, Bettiah, West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar

For the Respondent/s : Mr. GP21- Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 08-09-2015

Two petitioners have filed a writ application because the Water Resources Department would not implement the notification no.147 dated 9.2.2011. The decision of the District Selection Committee was to regularize the two daily wagers, who are petitioners before this Court, after due consideration of their service record etc.

Several set of counter affidavits have been filed. The one by the district administration supports the decision whereas a counter affidavit on behalf of Water Resources Department indicates that the matter has been sent before the Divisional Commissioner for roster

clearance, no sooner the roster clearance by the Divisional Commissioner is ordered, the respondents will consider and implement the decision.

However, it is also indicated in the counter affidavit that some Chief Engineer of Water Resources Department of Balmiki Nagar had informed the Divisional Commissioner that absorption of 85 daily wagers made by one Dhirendra Kumar, the then Chief Engineer, Water Resources Department, Balmiki Nagar is under some kind of enquiry.

Submission of the counsel for the petitioners is that the case of the petitioners cannot be linked with the enquiry, which was being held or was ordered to be made for regularization of those 85 candidates, because case of these two petitioners was considered by the District Selection Committee and recommendation made way back in the year 2011. This recommendation cannot be linked with the enquiry because they are not part of the same transaction.

Counsel for the petitioners further submits that the queries, which is being made now is an after thought by the authorities of the Water Resources Department and is a misplaced exercise because they do not take any stand in the counter affidavit that whatever has been decided and recommended by the District Selection Committee is vitiated or is a non est exercise. There cannot be any occasion for sitting

in appeal over the decision of the District Selection Committee.

The right of the petitioners created in their favour by virtue of the decision contained in Annexure- 2 has to fruitify unless the decision of the Selection Committee is annulled by any other competent authority, which does not seem to be the case. Some kind of smokescreen is being created against the recommendation when nothing has been said with regard to correctness of the recommendation as such.

In view of the same, the respondents are directed to implement the recommendation of the Selection Committee contained in Annexure- 2 within a reasonable time frame, preferably within a period of three months from the date of production of a copy of this order.

Writ application stands allowed in terms of the above.

(Ajay Kumar Tripathi, J)

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