

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No 1019 of 2014
IN
Civil Writ Jurisdiction Case No 25058 of 2013

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1. Md. Jawed Anwar S/O Md. Mahboob Alam R/O Village Noori Nagar P.S. - K. Hat, Purnia, Distt - Purnea.
 2. Md. Kamaluddin S/O Late S.K. Belaluddin R/O village Wali Tola Chunapur Purnea P.S. - K. Hat, Purnea Distt - Purnea.
 3. Chandan Kumar Sah S/O Sri Durga Prasad Sah R/O village Jhanda Chowk Bhatia Bazar, P.S. - K. Hat, Purnea, Distt - Purnea.
 4. Dinesh Prasad S/O Nandlal Das R/O village Azad Nagar Colony, Tutama Toli P.S. - K. Hat, Purnia Distt - Purnea.
 5. Sant Lal Rai S/O Ram Chandan Rai R/O village Nageshwar Bagh Kukshi Singh P.S. - Sadar, Distt - Purnea.
 6. Ravi Ranjan Kumar S/O Sunil Kumar R/O village Milan Para Kukshi Singh P.S. - Sadar, Distt - Purnea.
 7. Abdul Salam S/O Md. Islam R/O village Mohaddipur Purnia City P.S. - Sadar, Distt - Purnea.
 8. Dhirendar Das S/O Dhaneshwar Das R/O village Netajee Chowk P.S. - K.Hat, Distt - Purnea.
 9. Shahid Alam S/O Md. Aziz R/O village Korattari Madhubani, P.S. - K.Hat, Distt - Purnea.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department of Bihar, Patna.
2. The District Magistrate, District Purnea.
3. The Nagar Nigam Purnea through the Chairaman/Mayor, Purnea.
4. The Executive Officer, Nagar Nigam Purnea, District - Purnea.
5. Manoj Roy, son of Surendra Roy, resident of Mohalla – Amlatola, PS – K Hat, District - Purnea

.... Respondent/s

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Appearance :

For the Appellant/s : M/s Siya Ram Sahi & Nadimul Hasan, Advocates

For the N i g a m : Mr Ashok Kumar Sinha, Sr Advocate &
Mr Bijendra Kumar Singh, Advocate

For the S t a t e : Mr Ajoy Kumar Singh, AC to SC II

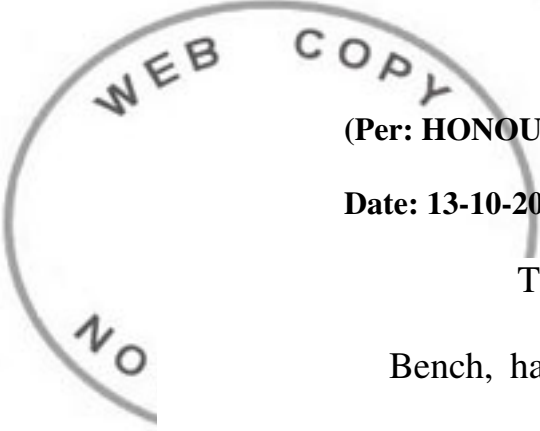
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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 13-10-2015



The nine appellants, having obtained leave of the Division Bench, have filed this intra-Court appeal against the judgment and order dated 22.04.2014 passed in *CWJC No 25058 of 2013*. The necessity of seeking leave to file appeal arose because, even though they were not parties to the writ proceedings, without notice to them, without making them parties, order, adverse to their interest, to the extent of virtually ordering their dismissal, was passed by the learned Single Judge.

2 We have heard learned counsel for the appellants, learned Senior Counsel for the Purnea Nagar Nigam and learned counsel for the State and, with their consent, this Letters Patent Appeal is being disposed of at this stage itself.

3 It appears that the nine appellants herein had been intermittently working as daily wagers under the Purnea Nagar Nigam. Having worked for sufficiently long time, they had sought regularization and that not having been acceded, they filed a writ petition being *CWJC No 10206 of 2011* which was disposed of by a learned Single Judge on 30.07.2012, inter alia, observing that if



similarly situated persons had been regularized by the Nagar Nigam then cases of the petitioners would be considered sympathetically. Accordingly, on the strength of this observation, the appellants then moved the Nagar Nigam who, taking note of the observations of the learned Single Judge, with approval of the State Government, regularized the services of the nine appellants. The appellants then became permanent employees of the Nagar Nigam and were working as such.

4 It appears that there were some other persons who were not being regularized and one of them was Manoj Roy. He then filed a writ petition being *CWJC No 25058 of 2013* claiming parity of treatment. He claimed that he was also one of the persons who was similarly situated to the nine appellants but while the nine appellants were regularized, Manoj Roy was left out. The learned Single Judge, by his judgment and order under appeal dated 22.04.2014, declined to grant any relief to the said Manoj Roy who was the writ petitioner but unfortunately did not stop there as it should have been done. The learned Single Judge then proceeded further suo motu to examine the correctness and validity of appointment of the nine appellants.

5 Needless to note again that the question about validity of regularization of the nine appellants was not an issue before the learned Single Judge nor the nine appellants were noticed by the



learned Single Judge nor the nine appellants were made parties to the proceeding before the learned Single Judge, still the learned Single Judge went into the question of validity of regularization of the nine appellants, noting that, the regularization would be contrary to the Full Bench judgment of this Court and that of the Apex Court and, as such, directed the Nagar Nigam to take steps for removal of all such employees, who were regularized, which would include the nine appellants. The learned Single Judge did not leave any option for the municipal authorities to consider the matter. The municipal authorities, being bound by the order of the learned Single Judge, completed the formality by issuance of notice and then passing orders of cancellation of regularization which has now been brought on record in the appellate proceedings being Memo dated 14.10.2014 issued by the Municipal Commissioner, Purnea Nagar Nigam. A reference to the said order would show that it has only followed the directions of the High Court issued by the learned Single Judge and nothing more.

6 Shri Siya Ram Shahi, learned counsel for the appellant submits that so far as the learned Single Judge was concerned, the learned Single Judge could have declined to interfere in the writ petition filed by Manoj Roy but while doing so, the learned Single Judge should not, without making the appellants parties, pass any

order adversely affecting them and such steps taken by the learned Single Judge would be void ab initio. The learned Single Judge, it is humbly submitted, exceeded his jurisdiction.

7 Having considered the matter, we are of the considered opinion that though the learned Single Judge did have the jurisdiction to interfere and/or adjudicate in the matter, if it so desired, but it was bound by principles of natural justice. The learned Single Judge could not adjudicate on its own and pass orders to the detriment of the nine appellants without either noticing the appellants or without appellants being made parties to the proceedings. It is elementary principle of law that no Court nor any quasi judicial authority nor any authority can pass any order having civil consequences as against a party without granting opportunity to the party to defend them.

8 Thus, so far as non-interference or non-grant of relief to the writ petitioner Manoj Roy is concerned, there being no appeal, the order cannot be commented upon but so far as the other part of the order is concerned, which was directly in relation to removal of the nine appellants, that could not be passed by the learned Single Judge. The direction, so passed for terminating the services of the appellants, was wholly without jurisdiction in the sense that it was issued without notice to the parties or without the parties before him. That part of the order has to be set aside. Once that part of the order is set aside, the

consequential order passed in obedience thereto by the Nagar Nigam cannot stand.

9 Accordingly, the order of termination of services of the nine appellants, as passed on 14.10.2014 by the Municipal Commissioner, Purnea Nagar Nigam, is also set aside. This appeal is, accordingly, allowed.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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