

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.538 of 2009
IN
Civil Writ Jurisdiction Case No. 12325 of 2001

Govind Upadhyay, S/O Sri Awadheshwar Upadhyay, R/O-Vill-Babhanauli, P.S.-
Ara Mufassil, District- Bhojpur at present Chitragupta Mandir, Bala Bazar, P.S.-
Ara, from District Bhojpur.

.... Respondent (5) Appellant.

Versus

1. Makeswar Prasad, S/O Sri Fakira Lal, R/O Mohalla- Mahajan Toli No.1, P.S.-
Ara Town, District- Bhojpur at Ara.

.....Petitioner-Respondent.

2. Bharat Petroleum Corporation Limited through its General Manager Eastern
Zone, 31 B.B.D. Bagh, Hong Kong Tower, Kolkata.

3. The Regional Marketing Manager, B.P.C.L. 4th Floor Asiana Chamber
Exhibition Road, Town and District- Patna.

4. The Chairman Dealer Section Board-1, Patna Industries Association Building,
Sinha Library Road, Patna.

5. The Dealer Selection Board, Patna, Industries Association Building, Sinha
Library, Patna through its Co-ordinator.

6. Ajit Kumar Singh, S/O Sri Ranjeet Bahadur Singh, R/O Mohalla-Chougain
Kothi, M.P. Bagh, C.K. Road, P.S. Ara (Town) District- Bhojpur.

7. J.R. Sharan, Retired Judge, Satguru Sadan, Road No. 13 B, Rajendra Nagar,
Patna.

.... Respondents-Respondents.

with

Letters Patent Appeal No. 539 of 2009
IN
Civil Writ Jurisdiction Case No. 8934 of 2001

Govind Upadhyay, S/O Sri Awadheshwar Upadhyay, R/O-Vill-Babhanauli, P.S.-
Ara Mufassil, District- Bhojpur at present Chitragupta Mandir, Babu Bazar, Ara,
District Bhojpur.

.... Respondent (5) Appellant/s

Versus

1. Ajit Kumar Singh, S/O Sri Ranjit Bahadur Singh, R/O Mohalla- Chougain Kothi,
M.P. Bagh, C.K. Road, P.S. Ara (Town), District- Bhojpur.

.... Petitioner-Respondent.

2. Bharat Petroleum Corporation Limited through its General Manager Eastern
Zone, 31 B.B.D. Bagh, Hong Kong Tower, Kolkata.

3. The Regional Marketing Manager, B.P.C.L. 4th Floor Asiana Chamber

Exhibition Road, Patna.

4. The Chairman Dealer Section Board-1, Patna Industries Association Building, Sinha Library Road, Patna.

5. The Dealer Selection Board, Patna, Industries Association Building, Sinha Library, Patna through its Co-ordinator.

6. J.R. Sharan, Retired Judge, Satguru Sadan, Road No. 13 B, Rajendra Nagar, Patna.

.... Respondent/s

Appearance :

(In LPA No. 538 of 2009)

For the Appellant/s : Mr. Om Prakash Upadhyay, Advocate.
Mr. Mithilesh Kr.Upadhyay, Advocate.

For the Respondent/s : Mr.
Mr. Madhuresh Prasad, Advocate.

(In LPA No. 539 of 2009)

For the Appellant/s : Mr. Om Prakash Upadhyay, Advocate.
Mr. Mithilesh Kr.Upadhyay, Advocate.

For the Respondent/s : Mr.
Mr. Madhuresh Prasad, Advocate.

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 06-05-2015

Two writ petitions were filed being C.W.J.C. Nos. 8934 and 12325 of 2001 challenging the issuance of letter of intents by the Bharat Petroleum Corporation Limited to one Govind Upadhyay, who was the contesting private respondent in both the writ petitions.

2. The two writ petitioners of the two writ petitions were candidates who were numbers 2 and 3 in the Panel. They had alleged serious irregularity in selection and appointment of Kerosene Oil Dealership. It appears that writ petitions were taken



up and were being heard by the learned Single Judge of this Court and it was a part heard matters wherein the learned Single Judge while issuing notice to the newly added respondents and after going through the records passed an interim order that till final disposal of the two writ petitions, Bharat Petroleum Corporation Limited should stop functioning of the respondent no.5. In view of the seriousness of the allegation, it is against this interim order dated 06.04.2009 that these two Letters Patent Appeals have been filed. While issuing notice in the admission matter to the private respondents in the appeals, who were writ petitioners, vide order dated 04.05.2009, the interim direction issued by the learned Single Judge dated 06.04.2009 was stayed. It appears that consequent thereto the writ records were also tagged with the Letters Patent Appeals. The respondents several times made attempt to get the Letters Patent Appeals disposed of or at least interim order vacated but each times the liberty was granted to the parties to move the learned Single Judge for final disposal of the writ petitions. Regrettably, no one pointed out to this Court in appeals that the writ records were tagged with the appeals and, as such, writ petitions could not be taken up.

3. Learned counsel appearing for the writ petitioners,



who are contesting respondents in the appeals, submits that by virtue of the stay granted by the appellate court as against the interim order passed by the learned Single Judge, the private respondent in the writ petitions, is continuing to benefit by wrongful settlement as the learned Single Judge has not referred to the facts and the order passed by him was only tentative and interim. The matter was heard in part. We would not wish to make any comment on the merits of the case or the nature of the order passed by the learned Single Judge. The order being an interim, in our view, it is proper that the writ petitions themselves be disposed of expeditiously.

4. Let it be noted that the writ petitions are of the year 2001 and we are in 2015, which relates to the Selection of Kerosene Oil (SKO) Dealership. Commercial matters or matter having commercial implications should be settled at the earliest. We would, therefore, request the learned Single Judge to take up this matter, which is already a part heard matter and try to conclude the proceedings expeditiously.

5. With the aforesaid observations, we remand this matter to the learned Single Judge.

6. Place both the writ petitions before Hon'ble Mr.

Justice Mihir Kumar Jha for orders on 11th of May, 2015 for His Lordship’s consideration and passing necessary orders. We request to the learned Single Judge to reconsider the matter.

7. These Letters Patent Appeals are, accordingly, disposed of.

(Navaniti Prasad Singh, J)

(Rajendra Kumar Mishra, J)

Bhardwaj/-N.A.F.R.

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