

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1328 of 2010

IN

Civil Writ Jurisdiction Case No. 4875 of 2007

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1. The Bihar State Agriculture Marketing Board through Its Administrative Officer,
Pant Bhawan, Baily Road, Patna

2. The Administrative Officer, Bihar State Agriculture Marketing Board, Pant
Bhawan, Baily Road, Patna

3. Sub-Divisional Officer, Jehanabad cum Special Officer Agriculture Produce
Market, Jehanabad

4. Secretary, Bihar State Agriculture Marketing Board, Patna Bhawan, Baily Road,
Patna

.... **Appellant/s**

Versus

1. Rajendra Kumar S/O Gobardhan Singh R/O Tal Bazar, P.O.Kalpa, P.S.Jehanabad,
Distt-Jehanabad

.... **Respondent/s**

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Appearance :

For the Appellant/s : Mr. Anjani Kumar, Sr. Advocate, AAG 6

For the Respondent/s : Mr. Jai Prakash Verma

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 16-07-2015

Heard learned Additional Advocate General 6 on behalf of
the State and the counsel representing the sole respondent.

2. There seems to be an obvious error in the order passed
by the learned Single Judge in CWJC No.4875 of 2007, decided on
30.11.2009. The first error is that in the year 2006, the Bihar
Agriculture Produce Market (Repeal) Act 2006 has come into place.
A modality was laid down in the said Repeal Act to decide the status
of the employees of the erstwhile Marketing Board. Case of the
petitioner- respondent before the learned Single Judge was that since
he was included in a pay scale he was not a daily wager, therefore, his

service could not be terminated, therefore direction for all benefits.

3. The status of the petitioner was required to be decided by the committee constituted under the Repeal Act. The issue should have been referred to the committee by the learned Single Judge instead of acting on behalf of the committee in adjudicating the status of the petitioner.

4. If the decision of the learned Single Judge is allowed to stand then the adjudication would confer a benefit on the petitioner beyond the ambit of the statute of the Repeal Act. The decision rendered by the learned Single Judge is also in teeth of various Division Bench decisions on the identical point.

5. The impugned order dated 30.11.2009 is set aside. Appeal is allowed. The petitioner- respondent is relegated to the three member committee constituted under the Repeal Act for a decision on his status, if he moves the three member committee on his status as an employee of the erstwhile Marketing Board. The committee must take a decision within a period of three months from the date of filing of such an application with a copy of this order.

(Ajay Kumar Tripathi, J)

(Anjana Mishra, J)

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