

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1336 of 2015

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1. Shekhar Hari SON OF LATE Biro Hari
 2. Fantus Das Son of Shankar Das
 3. Sita Ram Das, son of late Bairen Das.
 4. Bounki Das, Son of Sita Ram Das
 5. Ram Das Son of Sita Ram Das
 6. Rejesh Harijan Son of Jaldhar Harijan
 7. Ganesh Das son of late Mohan Das
 8. Manoj Hari Son of Nand Kishor Hari.

Petitioner No. 1 is the resident of Mohalla- Mundichak, P.S.- Tilkamanjhi, District- Bhagalpur, Petitioner No. 2 to 5, 7 are the resident of Village- Chotti Muradpur, P.S.- Rajoun, Distt- Banka and petitioner no. 6 is the resident of Mohalla- Kundi Tola, Nathnagar, P.S.- Nathnagar, District- Bhagalpur and petitioner no. 8 is resident of Village- Jogsar, P.S. Adampur District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Urban Development and Housing Department,
Government of Bihar, Patna.
3. The Commissioner, Bhagalpur Division, Bhagalpur.
4. The Municipal Commissioner, Municipal Corporation, Bhagalpur.
5. The Chief Executive Officer, Bhagalpur Municipal Corporation,
Bhagalpur.
6. The Mayor, Bhagalpur Municipal Corporation, Bhagalpur.
7. The District Magistrate, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate.
For the State : Mr. Thakur Jai Singh, AC to SC 26.
For the Corporation : Mr. Swapnil Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 23-02-2015

Heard learned counsel for the parties.

2. While this Court will have no difficulty in accepting the submission of the learned counsel for the petitioners that the petitioners' case being identical to the petitioners' of C.W.J.C. No. 18682 of 2009 as also C.W.J.C. No. 17580 of 2014, which have been disposed of by this Court vide orders dated 29.01.2010 and 28.01.2015 directing the authorities of Bhagalpur Municipal Corporation to consider the case of regularisation should be disposed of in the same terms, this Court must indicate that whatever judgment now rendered by the Full Bench in the case of ***Ram Sevak Yadav Vs The State of Bihar***, reported in **2013(1) PLJR 964**, operative portion whereof reads as follows:

"We therefore sum up our conclusions and answer the reference as follows:-

(A) Secretary State of Karnataka vs Uma Devi, reported in 2006(2)PLJR (SC) 363, prohibits regularization of daily wage, casual, ad-hoc and temporary appointments, the period of service being irrelevant;

(B)An illegal appointment void ab initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularized under any circumstances.

(C)Irregular appointments can be regularized if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any Court orders.

The petitioners were appointed in temporary capacity by a process contrary to Article-14 of the Constitution without competitive selection as an individual favour doled out to them. There is no material to hold that they were appointed against vacant sanctioned post and possessed qualifications for the same. They were terminated before (Uma Devi) (supra) and have sought to retain their status by virtue of Court proceedings and are therefore

not entitled to the benefits of paragraph 53. The issue of any procedural irregularity for a finding of forged appointment is therefore irrelevant."

must be taken into account while considering the case of the petitioners and others, who are claiming regularisation of their services.

3. With the aforementioned observation and direction, this writ application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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