

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No 1624 of 2012

IN

Civil Writ Jurisdiction Case No. 11462 of 2012

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Indra Narayan Mishra Son Of Shri Ramanand Mishra Resident Of
Village + P.O.- Barmajhiya, P.S.- Kanchanpur, District- Sapatari
(Nepal); At Present Posted As A Junior Engineer Under Irrigation
Division, Murliganj, Madhepura

.... Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna
2. The Director, Water Resources Department, Government of Bihar, Patna
3. The Under Secretary (Management), Water Resources Department, Government of Bihar, Patna
4. The Engineer-In-Chief, Middle, Water Resources Department, Irrigation Bhawan, Patna
5. The Chief Engineer, Water Resource Department, Birpur, Supaul
6. The Superintending Engineer, Water Resource Department, Birpur, Supaul
7. The Executive Engineer, Eastern Embankment Division, Birpur, Supaul
8. The Executive Engineer, Irrigation Division, Murliganj, Madhepura
9. Shri Sudesh Ram Father'S Name Not Known To The Petitioner The Then Executive Engineer, Eastern Embankment Division, Birpur, Supaul; Presently Posted As Superintending Engineer, Saran Nahar Anchal, Chapra (Saran)
10. Shri Dukhit Singh Father'S Name Not Known To The Petitioner The Then Sub Divisional Officer, Eastern Embankment, Sub-Division Birpur, Supaul
11. Shri Mahesh Prasad Thakur Father'S Name Not Known To The Petitioner The Then Executive Engineer, Eastern Embankment Division, Birpur, Supaul; Presently Posted As Superintending Engineer, Barrage Circle, Birpur, Supaul
12. Shri Pramod Kumar Father'S Name Not Known To The Petitioner The Then Sub-Divisional Officer, Eastern Embankment, Sub-Division, Kusaha, Birpur, Supaul; Presently Posted As Assistant Engineer (Design Division), Jamui, District- Jamui

.... Respondent/s

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For the Appellant/s : M/s Amrit Abhijat, Manager Sah &
Upendra Yadav, Advocates

For the State : Mr Harsh Kumar, GP XXII

CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 09-03-2015

There are three interlocutory applications which are required to be considered. They are IAs No 6863, 6864 of 2012 and 1167 of 2015. We have heard the learned counsel for the appellant and the learned counsel for the State and with their consent, this appeal itself has been heard and is being disposed of at this stage itself.

2 Petitioner had filed the writ petition, from which this intra-Court appeal arises, in respect of a departmental proceeding that had been initiated against him. Petitioner was Junior Engineer in Irrigation Department. The said writ petition came to be taken up on 06.08.2012 and was dismissed in limine by the order as follows:

*“Executive Engineer
concerned is directed to lodge an FIR under
Section 379 of the IPC naming the persons
who are involved in the theft of the boulders.*

*The writ petition being devoid
of merit is dismissed.”*

3 The Letters Patent Appeal has been filed against the aforesaid order.

4 Having considered the matter, in our view, if the writ petition was being dismissed in limine, there was no occasion for the learned Single Judge to pass an order directing to institute a first information report without giving any reason in support thereof. We are, accordingly, of the view that the order dated 06.08.2012 passed in CWJC No 11462 of 2012 cannot be supported. It is accordingly, set aside.

5 It would be open to the learned counsel for the appellant to raise all questions that are available to him before the learned Single Judge when the matter is taken up again including submissions with regard to subsequent events.

6 This Letters Patent Appeal, accordingly, stands disposed of.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

M.E.H./-

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