

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12378 of 2015

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1. Om Prakash Suman aged about 49 years, son of Sri Ram Prasad, resident of Irrigation Colony, Daudnagar, P.S. Daudnagar, Dist. Aurangabad.
 2. Dashrath Prasad aged about 50 years, son of late Jhangu Ram, resident of Gandak Colony, Anudar Siwan, P.S. Aundar, Dist. Siwan.
 3. Madan Mohan aged about 49 years, son of late Rasiyavan, resident of C/o C-5 Irrigation Colony, Safiasarai, P.S. Naya Ram Nagar, Dist. Munger.
 4. Jitendra aged about 49 years, son of Sri Rajbali Ram, resident of Quaterd No. D/2, North Koel Canal Colony, Aurangabad, P.S. Aurangabad, Dist. Aurangabad.
 5. Ram Chandra Prasad aged about 51 years, son of Sri Balkisun Ram, resident of C/o Ran Bansh Singh, Nawaka Tola, Padrouna, P.S. Padrouna, Kushinagar (U.P), Dist. Kushi Nagar.
 6. Ramadhar Kanaujia aged about 52 years, son of late Bankey Lal, resident of D-1 Type, Western Kosi Canal Division Sakri, Madhubani, P.S. Sakri, Dist. Madhubani.
 7. Ranjit Prasad aged about 47 years, son of late Purnamasi Prasad, resident of Krishna Nagar, Colony, Katari Hill Road, P.S. Gaya, Dist. Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Old Secretariat, Patna.
2. The Principal Secretary, General Administration Department, Old Secretariat, Patna.
3. The Deputy Secretary, Water Resources Department, Sinchai Bhawan, Old Secretariat, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar

For the Respondent/s : Mr. S.K. Sharma- GA1

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 17-08-2015

Heard learned counsel for the parties.

2. Seven petitioners have joined together for the following relief:-

“1. *That this writ application is filed for issuance of writ in the nature of certiorari for quashment of Clause 4 of letter no.70 dated 11.06.1996 in the*



light of judgment dated 07.08.2014 of the Hon'ble Apex Court in case of Puducherry Scheduled Caste People Welfare Association Versus Chief Secretary to Government, Union Territory of Pondicherry and others reported in 2014(9) SCC 236 as the respondents intend to revert the petitioners from the post of Assistant Engineer to the post of Junior Engineer on the basis of Clause 4 of letter no.70 dated 11.06.1996."

3. Learned counsel for the petitioners has submitted that when their appointment was made pursuant to an advertisement, contained in Annexure-2, they cannot be subjected to the circular dated 11.6.1996 and, therefore, this Court should declare the circular dated 11.6.1996 to be bad.

4. In the considered opinion of this Court, this writ application must fail on two grounds. The circular of the year 1996 has remained in vogue for a period of two decades. The petitioners cannot say that they were not aware of it because they were given show-cause notice dated 11.9.2008 by the concerned authority of Water Resources Department. Thereafter, the petitioners in fact had also filed their show-cause reply as is clearly mentioned by them in the writ application. No final decision on their such show-cause reply has been taken as yet. Thus, it will be still open for the petitioners to raise all these issues against the circular dated 11.6.1996 but, then, this Court will not be inclined to issue a anticipatory writ which is being sought to be obtained by the petitioners by assailing the validity of the circular dated

11.6.1996.

5. The mere submission of learned counsel for the petitioners that one LPA, involving the correctness of the same letter, being LPA No. 1418 of 2015, is pending before this Court, can also be of no avail to keep this writ application pending or to interfere with the circular dated 11.6.1996.

6. Let it be noted that a similar prayer was made by the petitioners before this Court in LPA No. 1474 of 2014 but this Court did not interfere with the circular and had only given liberty to the petitioners to file a representation to the Director General of Police in the case.

7. Be that as it may, since the show-cause reply of the petitioners against the show-cause notice dated 11.9.2008 is still pending, this Court will not be inclined to interfere with the circular but, then, nothing said in this order shall come in the way of the petitioners in approaching this Court again if any adverse order to their interest is passed by the competent authority.

8. With the aforesaid observation, this writ application is disposed of.

(Mihir Kumar Jha, J)

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