

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 158 of 2016

IN

LPA 1448 of 2012

- =====
1. Ashok Kumar, S/O Late Dwarika Singh, R/O Village - Tilakpur, P.S. - Lakhisarai, District - Lakhisarai
 2. Ashok Kumar Sinha, S/O Late Kamla Prasad, R/O Village - Bishunpura, P.S. - Obera, District - Aurangabad

.... Petitioners

Versus

1. The State of Bihar through Anjani Kumar Singh, the Chief Secretary, Govt. of Bihar, Patna
2. Anjani Kumar Singh, the Chief Secretary, Govt. of Bihar, Patna
3. Aamir Subhani, the Principal Secretary, Personnel & Administrative Reforms, Government of Bihar, Patna
4. Sudhir Kumar, the Commissioner-Cum-Secretary, Department of Road Construction, Govt. of Bihar, Patna
5. Laxmi Narayan Das, Engineer-In-Chief-cum-Additional Commissioner-cum-Special Secretary, Department of Road Construction, Patna
6. Kumar Ravi, District Magistrate, Gaya
7. Raj Kumar, the Superintending Engineer, Department of Road Construction, Magadh Anchal, Gaya
8. Rajesh Kumar Mishra, Executive Engineer, Department of Road Construction, Govt. of Bihar, Patna

.... Respondents

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Appearance :

For the Petitioners : Mr. Lalan Kumar, Advocate

For the Respondents : Mr. SC17 ARVIND KUMAR NO.-2

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 29-11-2016

Heard learned counsel for the petitioners and
learned counsel for the State.

The contempt application has been filed claiming
willful and deliberate disobedience of the order dated 16.07.2015
passed in L.P.A. No. 1448 of 2012. By the said order while setting
aside the order passed by the learned Single Judge and allowing



the appeal, a direction was issued upon the respondent State authorities to consider the claim of the appellants and take a decision within a period of three months from the date of production/communication of a copy of the order.

A show cause has been filed on behalf of the opposite parties in which it is stated that pursuant to the direction in the order under contempt, an order has been passed on 29.07.2016 considering the claim of the petitioners and rejecting the same for the reasons stated in the said order. The reason for rejection is that the petitioners do not fulfill the criteria for regularization as laid down in Uma Devi's Case i.e. their appointment was not made by a competent authority nor they were appointed against vacant sanctioned posts.

Learned counsel for the petitioners relies upon a circular dated 04.05.1989 issued by the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Department of Road Construction in which it is stated that in special circumstances the Executive Engineer can appoint a Daily wage Mazdoor. The same can never be considered as conferring any right on the petitioners since there was never any authority to the Executive Engineer to make any appointment on such posts.

Be that as it may, under the contempt jurisdiction,



this Court is not concerned with the correctness of the order dated 29.07.2016 which appears to be sufficient compliance of the order/direction of this Court. The contempt application is, accordingly, dismissed.

The petitioners if aggrieved by the said order dated 29.07.2016 may approach the proper forum for the redressal of their grievances against the said order.

(Ramesh Kumar Datta, J.)

(Birendra Kumar, J.)

Kundan

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2016
Transmission Date	

