

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1195 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 2734 of 2015**

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Tarun Kumar, son of Shree Hira Ram, resident of village and P.O.- Kurshandi,
P.S. Puraini , District Madhepura.

.... Petitioner-Appellant

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. Director of Planning, Bihar Mahadalit Vikas Mission, Bihar, Patna.
3. Additional Director of Welfare, Bihar, Patna.
4. District Magistrate, Madhepura.
5. District Planning Officer, Madhepura.
6. Sub-Divisional Welfare Officer, (Mahadalit Incharge), Udakishunganj.
7. Sub- Divisional Officer, Udakishunganj
8. Vivekanand Sada, son of Shree Mahendra Sada, village - Balia, P.O. - Nago Tola , P.S. - Puraini, District- Madhepura.

.... Respondents

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Appearance :

For the Appellant	:	Mrs. Punita Kumari Singh, Advocate
For the Respondents-State	:	Mr. Ray Shivaji Nath, A.A.G.-III
For respondent no.8	:	Mr. Arun Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 25-04-2016

The order dated 16th of February, 2015 passed by the learned Single Bench of this Court in C.W.J.C. No.2734 of 2015 is subject matter of challenge in the present Letters Patent Appeal wherein the writ application was dismissed with liberty to the petitioner to invoke common law remedy.

2. The appellant was appointed as Vikas Mitra on 26th of March, 2010 and continued till 16th of December, 2013 when his



services were terminated. As per the scheme of the appointment of Vikas Mitra (Annexure-7 to the writ application) if there are less than 50 families of Mahadalit in the rural Panchayat, then the Vikas Mitra will not be selected and it will be attached to nearest another Panchayat in the vicinity. The term of Vikas Mitra is said to be 11 months and in case of necessity, the appropriate decision would be taken later for extension of service. Vikas Mitras would not be treated as a Government servant and their services can be terminated for any reason during the period of engagement if their work and conduct is found to be unsatisfactory.

3. The appellant was appointed as Vikas Mitra on 26th of March, 2010 in the category of Mahadalit and his services were extended on his request. It was on 16th of December, 2013, on the basis of recommendation of District Welfare Officer dated 13th of December, 2013, the services of the appellant were dispensed with. In the communication dated 16th December, 2013, there is a reference to another communication dated 1st November, 2012 pointing out that in the said Panchayat, *Mushahar* caste is in majority.

4. In the counter affidavit filed on behalf of respondent no.8, it is asserted that in Kurshandi Panchayat, the number of people of *Mushahar* caste of Mahadalits is 1693 as against of number of persons belonging to caste *Chamar* which is only 532. The appellant



belongs to *Chamar* caste whereas respondent No.8 belongs to *Mushahar* caste. Therefore, in terms of the policy, it is asserted that the appellant was wrongly appointed as Vikas Mitra since he does not belong to majority community of Mahadalit of the village. In the counter affidavit, there is reference to the report dated 1st of November, 2012 giving the details of the population of Mahadalit in the said Panchayat.

5. We have heard learned counsel for the parties and find no merit in the appeal. Firstly, the appointment of Vikas Mitra is only for a period of 11 months which period was extended once at the request of the appellant. His services have not been extended after completion of the second extended period of Vikas Mitra. Still further, Mahadalits of *Mushahar* caste are in majority of the village. The appellant does not belong to that caste. As per the scheme, the Vikas Mitra has to belong to the majority community of Mahadalit community. Even for that reason, it cannot be said that non-removal of the contract of the appellant suffers from any patent illegality.

6. Another argument of learned counsel for the appellant is that one set of contractual employee is replaced by another set of contractual employee, which is not permissible.

7. We do not find any merit in the said argument as well. The aforesaid principles are applicable when the appointments are

made against regular post. The post of Vikas Mitra against which the appellant was appointed is not a regular or cadre post. It is a contractual appointment for upliftment of Mahadalits in the Panchayat area. Therefore, the principle that one set of contractual employees will not be replaced by another set of contractual employees cannot be extended to the facts of the present case.

8. In view thereof, we do not find any merit in the present Letters Patent Appeal which is, accordingly, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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