

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1837 of 2010

IN

Civil Writ Jurisdiction Case No. 13512 of 2010

- =====
1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
 2. The Principal Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, New Secretariat, Bihar, Patna
 3. The Finance Commissioner, at present known as Principal Secretary, Govt. of Bihar, Old Secretariat, Bihar, Patna
 4. The Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Bihar, Patna
 5. The Special Secretary, Department of Agriculture, New Secretariat, Bihar, Patna
- Appellants

Versus

1. Khushi Lal Thakur S/O Late Nirdhar Thakur P.O.- Bhora, P.S.- Simri Bakhtiyarpur, Distt.- Saharsa
 2. The Administrator Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna
 3. The Sub-Divisional Officer -Cum- Special Officer Agriculture Produce Market Committee (Abolished), Simri Bakhtiyarpur, Distt.- Saharsa
- Respondents

With

Letters Patent Appeal No. 1889 of 2010

IN

Civil Writ Jurisdiction Case No. 12670 of 2010

- =====
1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
 2. The Principal Secretary, Personnel and Administrative Reforms Department, Old Secretariat, Bihar, Patna
 3. The Principal Secretary, Department of Finance Govt. of Bihar, Old Secretariat, Bihar, Patna
 4. The Agriculture Production Commissioner Department of Agriculture, New Secretariat, Bihar, Patna
 5. The Joint Secretary, Department of Agriculture New Secretariat, Bihar, Patna
- Appellants

Versus

1. Jitu Sharma S/O Late Ram Lakhan Sharma R/O Vill. + P.S.- Bishanpur, Via-Laheriasarai, Distt.- Darbhanga
 2. The Administrator, Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna The Secretary, Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna
- Respondents

With

Letters Patent Appeal No. 2041 of 2010

IN

Civil Writ Jurisdiction Case No. 13944 of 2010

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1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Personnel and Administrative Reforms Development, Old Secretariat, Bihar, Patna.
3. The Principal Secretary, Department of Finance, Govt. of Bihar, Old Secretariat, Bihar, Patna.
4. The Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Bihar, Patna.
5. The Joint Secretary, Department of Agriculture, New Secretariat, Bihar, Patna.

.... Appellants

Versus

1. Umesh Prasad Singh, son of Late Rajeshwar Prasad Singh, resident of village – Rasulpur Suhawan, P.S. – Bhagwanpur, District – Vaishali.
2. Brahm Prakash Dubey, son of Sri Ram Krishan Dubey, resident of village – Matiar, P.S. – Manjhi, District – Chapra (Saran).
3. Baban Rai, son of Sri Dallu Rai, resident of village – Mothahan, District – Chapra.
4. Sheo Kumar, Son of late Jokhan Prasad, resident of village – Purna Magar, P.S. – Magarotari, District – Gadhawa (Jharkhand).
5. The Administrator, Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna.
6. The Secretary, Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna
7. The Sub-Divisional Officer-cum-Special Officer, Agriculture Produce Market Committee (Dissolved), Chapra, District – Chapra (Saran).

.... Respondents

With

**Letters Patent Appeal No. 1952 of 2010
IN
Civil Writ Jurisdiction Case No. 13572 of 2010**

- =====
1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
 2. The Principal Secretary Personnel and Administrative Reforms Development, Old Secretariat, Bihar, Patna
 3. The Principal Secretary Department of Finance, Govt. of Bihar, Old Secretariat, Bihar, Patna
 4. The Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Bihar, Patna
 5. The Joint Secretary Department of Agriculture, New Secretariat, Bihar, Patna

.... Appellants

Versus

1. Raj Narayan Singh S/O Sri Nandlal Thakur R/O Vill.- Jagdishpur, P.S.- Rajapakar, Distt.- Vaishali
2. The Administrator Bihar State Agricultur Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna
3. The Secretary Bihar State Agriculture Marketing Board (Dissolved), Pant Bhawan, Bailey Road, Patna
4. The Sub-Divisional Officer-Cum-Special Officer Agriculture Produce Market Committee (Dissolved), Sahebganj, Distt.- Muzaffarpur

.... Respondents

With

Letters Patent Appeal No. 1911 of 2010
IN
Civil Writ Jurisdiction Case No. 12773 of 2010

- =====
1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
 2. The Principal Secretary, Personnel and Administrative Reforms Development (Now General Administrative Department), Old Secretariat, Bihar, Patna
 3. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna
 4. The Agriculture Production Commissioner Department of Agriculture, New Secretariat, Bihar, Patna
 5. The Joint Secretary Department of Agriculture, New Secretariat, Bihar, Patna
- Appellants

Versus

1. Lalan Ram S/O Late Saryug Ram R/O Vill.- Phulwaria, P.S.- Chakia, Distt.- East Champaran
 2. Kapil Ram S/O Late Shyam Lal Ram R/O Vill.- Chakia, P.S.- Chakia, Distt.- East Champaran
 3. The Administrator Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna
 4. The Special Officer Cum Sub Divisional Officer Agriculture Produce Market Committee (Dissolved), Chakia, Distt.- East Champaran
- Respondents

With

Letters Patent Appeal No. 1953 of 2010
IN
Civil Writ Jurisdiction Case No. 12641 of 2010

- =====
1. The State of Bihar through the Chief Secretary Government of Bihar, Patna
 2. The Principal Secretary, Personnel and Administrative Reforms Department Old Secretariat, Government of Bihar, Patna
 3. The Principal Secretary, Department of Finance Government of Bihar, Old Secretariat, Bihar, Patna
 4. The Agriculture Production Commissioner Department of Agriculture New Secretariat, Bihar, Patna
 5. The Joint Secretary, Department of Agriculture New Secretariat, Bihar, Patna
- Appellants

Versus

1. Yogendra Mallik S/O Late Sukdeo Mallik R/O Vill Kaidrabad, Nim Pokhar, Police Station University, Distt-Darbhanga
2. Ramavtar Mallik S/O Late Basudeo Mallik R/O Vill Kaidradad, Nim Pokhar, Police University, Distt-Darbhanga
3. Premshankar Prasad S/O Shri Babu Lal Prasad R/O Vill & P.O.Harnatha, P.S. Pakari Dayal, Distt-East Champaran
4. Umesh Kumar S/O Late Kishun Sah R/O Vill Purnanagar, P.S.Nagarutari, Distt-Garhwa
5. Mohan Mallik S/O Late Sukhdeo Mallik R/O Vill Kaidradad, Nim Pokhar, Police Station University, Distt-Darbhanga
6. Rajeshwar Prasad Sah S/O Shri Prithwichand Sah R/O Vill Ratanpur, P.S. Ratanpur, Distt-Supaul
7. The Administrator , Bihar State Agriculture Marketing Board(Abolished) Pant Bhawan, Bailey Road, Patna

8. The Sub Divisional Officer-Cum-Special Officer Agriculture Produce Market Committee(Abolished) Darbhanga

.... Respondents

With

**Letters Patent Appeal No. 1171 of 2011
IN
Civil Writ Jurisdiction Case No. 1240 of 2009**

- =====
1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna
 2. Finance Commissioner at present known as Principal Secretary Department of Finance, Old Secretariat, Bihar, Patna
 3. The Agriculture Production Commissioner at present known as Principal Secretary, Department of Agriculture, New Secretariat Bihar, Patna
 4. The Secretary at present known as Principal Secretary, Personnel and Administrative Reforms Department, Bihar, Patna
 5. The Joint Secretary, Department of Agriculture, New Secretariat, Bihar, Patna

.... Appellants

Versus

1. Mahboob Alam S/O Sarfuddin R/O Vill.- Panasi, Post- Panasi Hat, P..S- Pahar Katuta, Distt.- Kishanganj, Daily Wages Class III (Store Keeper) Employees Of The Agriculture Producer Market Committee, Bahadurganj, Distt.- Bahadurganj
2. Md. Islamuddin S/O Late Nazaf Ali R/O Vill.- Haptiya, Post- Gangagi Hat, P.S.- Bahadurganj, Distt.- Kishanganj Daily Wages Class III (Record Keeper) Employees of the Agriculture Producer, Market Committee, Bahadurganj, Distt.- Bahadurganj
3. Deonarayan Jha S/O Late Jaldhar Jha R/O Vill.- And Post- Nahashrupali, P.S.- Biski, Distt.- Madhubani Daily Wages Class III (Record Keeper) Employees Of The Agriculture Producer, Market Committee, Bahadurganj, Distt.- Bahadurganj
4. Nawal Kishore Prasad S/O Gang Prasad R/O Dumra, Ward No.-5, P.S.- Dumra, Distt.- Sitamarhi Daily Wages Class Iii (Electronic Mechanic) Employees Of The Agriculture Producer, Market Committee, Bahadurganj, Distt.- Bahadurganj.
5. Sanicharlal Son of Sri Nelam, resident of village – Nihar Bagh Satal, Post & P.S. – Bahadurganj, District – Kishanganj, daily wages class IV grade (Gardener) Employees of the Agriculture Produce Market Committee, Bahadurganj, District – Bahadurganj.
6. Mohan Mallick, son of Late Danae Mallick, resident of village and post Bahadurganj, District – Kishanganj, daily wages class IV grade (Sweeper) Employees of the Agriculture Produce Market Committee, Bahadurganj, District – Bahadurganj.
7. The Administrator, Bihar State Marketing Board, Bihar (abolished), Pant Bhawan, Bailey Road, Patna.
8. The Secretary, Bihar State Marketing Board, Bihar (abolished), Pant Bhawan, Bailey Road, Patna.
9. The Sub-Divisional-cum-Special Officer, Agriculture Produce Market Committee (abolished), Bahadurganj, District – Kishanganj.

.... Respondents

With

Letters Patent Appeal No. 1014 of 2011
IN
Civil Writ Jurisdiction Case No. 1355 of 2009

- =====
1. The State of Bihar, through Chief Secretary, Govt. of Bihar, Patna.
 2. Finance Commissioner at present known as Principal Secretary Department of Finance, Old Secretariat, Bihar, Patna.
 3. The Agriculture Production Commissioner at present known as Principal Secretary, Department of Agriculture, New Secretariat Bihar, Patna.
 4. The Secretary at present known as Principal Secretary, Personnel and Administrative Reforms Department, Bihar, Patna.
 5. The Joint Secretary, Department of Agriculture, New Secretariat, Bihar, Patna.
- Appellants

Versus

1. Umesh Chandra Prasad, son of Late Sheo Pujan Prasad Singh of village and P.S. – Bihiyan, Bhojpur.
2. Damodar Choudhary, son of Kaleshwar Choudhary, resident of village Malahi, Post Shukhpur, P.S. & District – Supaul.
3. The Administrator, Bihar State Agriculture Marketing Board, Bihar, (Abolished) Pant Bhawan, Bailey Road, Patna.
4. The Secretary, Bihar State Agriculture Marketing Board, Bihar, (Abolished) Pant Bhawan, Bailey Road, Patna.
5. The Sub-Division-cum-Special Officer, Agriculture Produce Market Committee (Abolished), Kishanganj, District – Kishanganj.

.... Respondents

With

Letters Patent Appeal No. 1062 of 2011
IN
Civil Writ Jurisdiction Case No. 6393 of 2007

- =====
1. The State of Bihar through the Secretary, Bihar State Agriculture Marketing Board, Pant Bhawan, Bailey Road, Patna (Dissolved).
 2. The Director, Bihar State Agriculture Marketing Board (Dissolved), Pant Bhawan, Bailey Road, Patna
 3. The Chief Engineer, Bihar State Agriculture Marketing Board (Dissolved), Pant Bhawan, Bailey Road, Patna
 4. The Assistant Director, Agriculture Marketing Board (Dissolved), Bihar, Patna
 5. The Executive Engineer, Agriculture Marketing Board (Dissolved) Bihar, Patna.
 6. The Sub Divisional Officer, Forbisganj Cum Special Officer, Agriculture Produce Marketing Committee (Dissolved) Forbisganj, Bihar, Patna.

.... Appellants

Versus

Sri Kamendra Choudhary, Late Samshobhit Choudhary, Village Bibhuti Nagar, P.O. Bajitpur Chande Via Bajit Pur, P.S. Patepur, Dist. Vaishali.

.... Respondents

With

Letters Patent Appeal No. 1157 of 2009
IN
Civil Writ Jurisdiction Case No. 1120 of 2007

=====

Surendra Kumar Singh, son of Late Ramlagan Singh, resident of village – Kharika,
P.S. – Sonapur, District – Chapra.

.... Appellant

Versus

1. The State of Bihar, through the Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, Patna.
2. The Agriculture Produce Commissioner, Govt. of Bihar, Patna.
3. The Bihar State Agriculture Produce Marketing Board, through its Administrator, Pant Bhawan, Bailey Road, Patna.
4. The Controller, Bihar Agriculture Produce Marketing Board, Pant Bhawan, Bailey Road, Patna.
5. Rajendra Kumar Yadav, son of Ram Prasad Yadav, resident of village Baswa, P.S. – Andhratharhi, District – Madhubani.
6. Ashutosh Kumar Mishra, son of Late Hari Nath Mishra, resident of village – Kamalpur, P.S. – Raiyan, District – Darbhanga.
7. Nagendra Jha, son of Mahenda Narain Jha, resident of village – Bahuarwa, P.S. – Manigachhi, District – Darbhanga.
8. Surajnandan Prasad, son of Late Kishun Ram, resident of village – Mairha Toli, P.S. – Khajekalan District – Patna.
9. Shiv Kumar Ram, son of Late Atwari Ram, resident of village Sumka, P.S. – Tharthari, District – Nalanda.
10. Ram Bilas Prasad, son of Late Ramdhyan Mahto, resident of Mohalla – North Mandiri, P.S. – Budha Colony, District – Patna.
11. Birendra Thakur, son of Purnmasi Thakur, resident of village – Almiganj, P.S. – Nasriganj, district – Rohtas.
12. Vijay Sharma, son of Ram Naresh Sharma, resident of village – Moriyama, P.S. – Bikram, District – Patna.
13. Rajballabh Singh, son of Late Kishun Singh, resident of village Lakhasma, P.S. – Tehtar, District – Gaya.
14. Ram Naresh Sharma, son of Late Raktu Singh, resident of village Chainpur, P.S. – Naubatpur, District – Patna.
15. Banister Ram, son of Sri Basudeo Ram, resident of village – Bargacha, P.S. – Manjha, District – Gopalganj.

.... Respondents

With

Letters Patent Appeal No. 2026 of 2010

IN

Civil Writ Jurisdiction Case No. 13827 of 2010

- =====
1. The State of Bihar Through The Chief Secretary Govt. of Bihar, Patna
 2. The Principal Secretary, Personnel and Administrative Reforms Department, Old Secretariat, Bihar, Patna
 3. The Principal Secretary Department of Finance, Govt. of Bihar, Old Secretariat, Bihar, Patna
 4. The Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Bihar, Patna
 5. The Joint Secretary Department Of Agriculture, New Secretariat, Bihar, Patna

.... Appellants

Versus

1. Upendra Prasad Yadav S/O Late Jitu Yadav R/O Village- Sundarpur, P.S.- Katri Sarai, District- Nalanda

- 2. Ashok Kumar Sharma S/O Late Jadunandan Sharma R/O Village- Bishunpur, P.S.- Wazirganj, District- Gaya
- 3. The Administrator Bihar State Agriculture Marketing Board (Dissolved), Pant Bhawan, Bailey Road, Patna
- 4. The Secretary Bihar State Agriculture Marketing Board (Dissolved), Pant Bhawan, Bailey Road, Patna
- 5. The Sub-Divisional Officer-Cum-Special Officer Agriculture Produce Marketing Committee (Dissolved), Siwan, District- Siwan

.... Respondents

With

**Letters Patent Appeal No. 2023 of 2010
IN
Civil Writ Jurisdiction Case No. 14022 of 2010**

- 1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
- 2. The Principal Secretary Personnel and Administrative Reforms Department, Government Of Bihar, Patna
- 3. The Principal Secretary Department of Finance, Government of Bihar, Old Secretariat Building, Bihar, Patna
- 4. The Agriculture Production Commissioner Department of Agriculture, New Secretariat Building, Bihar, Patna
- 5. The Joint Secretary Department of Agriculture, New Secretariat Building, Bihar, Patna

.... Appellants

Versus

- 1. Ram Prakash Choudhary S/O Late Tofu Choudhary R/O Mohalla- Jhanjharpur, Police Station- Jhanjharpur, District- Madhubani
- 2. The Administrator Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna
- 3. The Secretary Bihar State Agriculture Marketing Board (Dissolved), Pant Bhawan, Bailey Road, Patna
- 4. The Sub Divisional Officer-Cum-Special Officer Agriculture Produce Market Committee (Dissolved), Jhanjharpur, District- Madhubani

.... Respondents

With

**Letters Patent Appeal No. 1951 of 2010
IN
Civil Writ Jurisdiction Case No. 13956 of 2010**

- 1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
- 2. The Principal Secretary Personnel And Administrative Reforms Development, Old Secretariat, Bihar, Patna
- 3. The Principal Secretary Department of Finance, Govt. of Bihar, Old Secretariat, Bihar, Patna
- 4. The Agriculture Production Commissioner Department of Agriculture, New Secretariat, Bihar, Patna
- 5. The Joint Secretary Department of Agriculture, New Secretariat, Bihar, Patna

.... Appellants

Versus

- 1. Narmadeshwar Prasad Singh S/O Late Sagdambika Pd. Singh R/O Ashiyana

Nagar Colony, Faze 1, Quarter O. L.I.G. A/14, P.S.- Rajeev Nagar, Distt.- Patna
2. The Administrator Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna
3. The Secretary Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna

.... Respondents

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Appearance :

For the Appellants : Mr. Ray Shivaji Nath, Sr. Adv. A.A.G.-3
Mr. Amarendra Kumar, AC to AAG-3
Mr. P.K. Verma, Sr. Adv. A.A.G.-5
Mr. Nand Kumar Singh, AC to A.A.G.-5
For the Respondents : Mr. Sunil Kumar Mandal, SC-24
Mr. Arvind Kumar, AC to S.C.-24
Mr. Bipin Kumar, AC to S.C.-24
For the contesting resp.: Mr. Jai Prakash Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 09-05-2016

All these appeals arise out of the judgment and order dated 27.08.2010 passed in C.W.J.C. No. 12641/2010 and its analogous cases.

2. We have heard Sri Ray Shivaji Nath, learned Senior Counsel and A.A.G.-III and Sri Sunil Kumar Mandal, learned counsel for the State and Sri Jai Prakash Verma, learned counsel for the contesting respondents who were writ petitioners.

3. The issue before the learned Single Judge was, whether daily wagers-adhoc appointees, who had not been regularized in the services of the Bihar Agricultural Produce Market Board for the respective Market



Committees, would receive the benefit of the provisions of Section 6 of the Bihar Agricultural Produce Markets (Repeal) Act (hereinafter referred to as “Repealing Act”), 2006, and were liable to be considered for absorption upon abolition of the Market Board and the Market Committees. Admittedly, all the writ petitioners were non-regularized employees working in the Board, may be for a considerable period, in that status. The Repealing Act having been brought about, the matter was referred to a Three Men Committee. The Committee/State Government decided that, cases of those employees, who are not regularized, would not be considered for absorption. Accordingly, a large number of employees, who were working on daily wages, may be since very long, filed various writ petitions. Some of them being C.W.J.C. No. 16109/2008 and its analogous cases. When the matter was taken up in those cases by learned Single Judge of this Court, it was referred to a Division Bench and the Division Bench considered the matter and clearly held that, daily wagers could not be considered for regularization in terms of Section 6 of the Repealing Act, as the Repealing Act would only protect persons who were in regular employment. The Division Bench further held that, the decision of the State,

not to consider cases of daily wagers, cannot be said to be wrong. The writ petitions were, accordingly, dismissed.

4. The Division Bench judgment of this Court is since reported in **2010 (1) PLJR 763 (Nand Kumar Vs. State of Bihar)**. Being aggrieved by the decision of the Division Bench, the matter was taken up by the writ petitioners to the Apex Court. The Apex Court affirmed the Division Bench order and dismissed the appeals. The judgment of the Apex Court is reported in **(2014) 5 SCC 300 (Nand Kumar Vs. State of Bihar)**. The Apex Court clearly was of the view that the Repealing Act talked of appointment and appointment would be any appointment by following procedure, and in other words, regular appointment. Daily wagers could not fall within that category. Thus, they affirmed the Division Bench judgment.

5. In view of the aforesaid, we are of the view that the present appeals are to be allowed, not only we are bound by the earlier Division Bench judgment, but those judgments having been affirmed by the Supreme Court, as aforesaid. It is not open for us to take a different view of the matter. All the writ petitioners, admittedly, being unconfirmed non-regularized employees of the Marketing

Board or Market Committee, they cannot take the benefit of Section 6 of the Repealing Act of the State to consider their absorption.

6. In so far as Letters Patent Appeal No. 1157/2009 (Surendra Kumar Singh Vs. The State of Bihar & Ors.) is concerned, it arises from order dated 06.02.2008 passed in C.W.J.C. No. 1120/2007, by which order the writ petition of the writ petitioner for absorption was rejected on the ground that being a daily wager he would not claim right to be considered for absorption under Repealing Act.

7. All these Letters Patent Appeals are allowed, except Letters Patent Appeal No. 1157/2009, which is dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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