

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1052 of 2015

IN

Civil Writ Jurisdiction Case No.3159 of 2015

- =====
1. Rahul Lochan, Son of Sri Pashupati Nath Tiwari, Resident of Village-Murtuzapur, P.O.-Tarauni, P.S.-Bahera, District-Darbhanga.
 2. Ajay Yadav, Son of Sri Nirdhan Yadav, Resident of Village-Hare Rampur, P.S.-Khodawanpur, District-Begusarai.
 3. Amod Kumar Singh, Son of Sri Ram Sakha Prasad Singh, Resident of Village-Mortar, P.O.-Malipur, P.S.-Garhpura, District-Begusarai.
- Appellants**

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Principal Secretary, Department of Science and Technology, Government of Bihar, Patna.
4. The Director, Department of Science and Technology, Government of Bihar, Patna.
5. The Lalit Narayan Mithila University, Darbhanga through it's Registrar.
6. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
7. The Registrar, Lalit Narayan Mithila University, Darbhanga.
8. The Director, Women's Institute of Technology, Kameshwar Nagar, Darbhanga.

.... Respondents

With

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Letters Patent Appeal No.1188 of 2015

IN

Civil Writ Jurisdiction Case No.2466 of 2015

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Sanjeev Kumar, Son of Late Shri Krishna Dev Karn, Resident of
Bangali Toal, Laheriasarai, P.S.-Laheriasarai, District-Darbhanga.

.... **Appellant**

Versus

1. The Principal Secretary, Department of Human Resource Development, Government of Bihar, Patna.
2. The Vice-Chancellor, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
3. The Registrar, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
4. The Director, Women's Institute of Technology, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.

.... **Respondents**

With

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Letters Patent Appeal No. 1327 of 2015

IN

Civil Writ Jurisdiction Case No.3159 of 2015

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1. Sunayana Kumari, Wife of Sri Binay Kumar Jha, Resident of Village-Salha, P.O. + P.S.-Laheriasarai, District-Darbhanga Presently residing at Quarter No.-7, Nargauna Palace Compound, LNMU Campus, Darbhanga.
2. Kritika Jha, Wife of Naresh Kumar Jha, resident of C/o Manmohan Jha, Soti Lane, Near Power House, P.O.-Lalbagh, Darbhanga.
3. Sufal Kant Jha, Son of Late Dukhan Jha, resident of Dhankhor, P.O.-Parsa, District-Madhubani.
4. Kundan Kumar, Son of Sri Satendra Singh, resident of Indira Colony, Alall Patti, P.O.-Darbhanga, Medical College, Darbhanga.
5. Bablu Kumar Paswan, Son of Sri Ganesh Paswan, resident of Mohalla-Nimpokhar, Kadirabad Chowk, Ward No.-4,

Darbhanga.

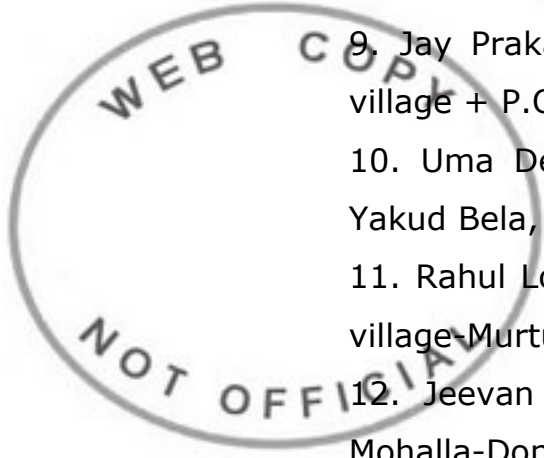
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6. Mohan Kumar Mishra, Son of Sri Parmanand Mishra, resident of village + P.O.-Kanahai, P.S.-Ghanshyampur, District-Darbhanga.
 7. Rajesh Paswan, Son of Sri Raju Paswan resident of Mohalla- Ward No.-3, Bela Shankar, P.O.-Lalbagh, P.S.-LNMU, District- Darbhanga.
 8. Lalita Kumari, Wife of Sri Sanjay Kumar, resident of Mohalla- Raghepura, P.O.-Lahariasarai, District-Darbhanga.
 9. Pawan Kumar Singh, Son of Sri Navin Chandra Singh, Address-Jora Dutalla, P.O.-Madhepura, District-Deoghar (Jharkhand).
 10. Ashok Kumar Thakur, Son of Sri Mishrilal Thakur, resident of village-Singioun, P.O.-Ram Patti, P.S.-Raj Nagar, District-Madhubani.
 11. Jyoti Kumari, Daughter of Sri Baldeo Jha, resident of Road No.-3, Laxmi Sagar, P.O.-Laxmi Sagar, District-Darbhanga.

.... **Appellants**

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Principal Secretary, Department of Science and Technology, Government of Bihar, Patna.
4. The Director, Department of Science and Technology, Government of Bihar, Patna.
5. The Lalit Narayan Mithila University, Darbhanga through it's Registrar.
6. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
7. The Registrar, Lalit Narayan Mithila University, Darbhanga.
8. The Director, Women's Institute of Technology, Kameshwar Nagar, Darbhanga.

.... **Respondents/Respondents 1st Set**



9. Jay Prakash Singh, Son of Sri Jagadish Singh, resident of village + P.O.-Sukki, P.S.-Khajauli, District-Madhubani.
10. Uma Devi, Wife of Late Ravi Sharma, resident of village-Yakud Bela, P.O.-Kabirchak, P.S.-Bahadurpur, District-Darbhanga.
11. Rahul Lochan, Son of Sri Pashupati Nath Tiwari, resident of village-Murtuzapur, P.O.-Tarauni, District-Darbhanga.
12. Jeevan Kumar Das, Son of Late Jagdish Das, resident of Mohalla-Donar, Ganga Sagar, P.O.-Lalbagh, District-Darbhanga.
13. Ajay Yadav, Son of Sri Nirdhan Yadav, resident of village-Hare Rampur, P.O.-Ejaw, P.S.-Khodawanpur, District-Begusarai.
14. Baidyanath Kumar Ray, Son of Sri Madan Ray, resident of Mohalla-Rambagh, P.O. & District-Darbhanga.
15. Amod Kumar Singh, Son of Sri Ram Sakhan Prasad Singh, resident of village-Mortar, P.O.-Malipur, P.S.-Garhpura, District-Begusarai.
16. Sangita Jha, Wife of Shashi Bhushan Choudhary, resident of Mohalla-Station Road, Mirzapur, Hyundai Wali, Gali, Darbhanga.
17. Randhir Kumar Thakur, Son of Sri Dinesh Thakur, resident of Mohalla-Sundarpur, Chattipokhar, P.O.-Lalbagh, District-Darbhanga.
18. Shaswat Kishlay, Son of Sri Sudhir Srivastava, resident of 105, Neelgiri Bhawan, West Boring Canal Road, Patna.
19. Asha Devi, Daughter of Sri Ram Briksha Ram, resident of Mohalla-Katahalbari, LNMU Campus, Darbhanga.
20. Bipin Kumar Singh, Son of Sri Raj Kishore Singh, resident of village-Kila Ghat Tarauni, P.O.-Subhankarpur, District-Darbhanga.
21. Lalan Ray, Son of Sri Laxmi Ray, resident of village-Subhankarpur, Satihara Tola, P.O.-Lalbagh, District-Darbhanga.

.... **Petitioners/Respondents 2nd Set**

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Appearance :

For the Appellants

: Mrs. Nivedita Nirvikar, Adv.

Mr. Kumar Kaushik, Adv.

For the Respondents-University : Mr. Ajay Bihari Sinha, Adv.

: Mr. Rajiv Roy, G.P.5

Mr. Shailesh Kumar, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 11-01-2016

All the three appeals, under Clause 10 of the Letters Patent of this Court, arising out of orders passed by a learned single Judge, in separate proceedings, under Article 226 of the Constitution of India, involve almost identical controversies as regards appointment of employees, on *contractual basis*, in Women's Institute of Technology, Darbhanga (*hereinafter referred to as "the Institute"*), under Lalit Narayan Mithila University, Darbhanga (*hereinafter referred to as "the University"*). The appeals have, therefore, been heard together on the request of the learned counsel for the parties concerned and are being disposed of by the present common judgment.

2. L.P.A. No.1052 of 2015 and L.P.A. No.1327 of 2015 arise out of order, dated 08.05.2015, passed by a

learned single Judge of this Court in C.W.J.C. No.3159 of 2015, whereas L.P.A. No.1188 of 2015 arises out of order, dated, 10.02.2015, passed in C.W.J.C. No.2466 of 2015, whereby applications filed by the appellants, under Article 226 of the Constitution of India, have been dismissed.

3. The appellants herein had been, admittedly, working, on *contractual basis*, in the Institute against different posts. They approached this Court, under Article 226 of the Constitution of India, with the grievance of their replacement from the posts, by another set of contractual employees, by inviting applications through advertisement. Learned single Judge has dismissed the writ applications by the orders, under appeal, upon noticing the fact, *inter alia*, that most of them, in response to the advertisement inviting applications for fresh appointments, on *contractual basis*, had applied and participated in the process of selection and after having failed in their attempts to get appointment on *contractual basis*, in terms of the said advertisement, challenged the process of appointment on *contractual basis* itself, which could not, according to the learned single Judge, be permitted.

4. We have heard Mrs. Nivedita Nirvikar, learned counsel, appearing on behalf of the appellants in L.P.A. Nos.1052 of 2015 (Rahul Lochan & Ors. Vs. The State of Bihar & Ors.) and L.P.A. No.1327 of 2015 (Sunayana



Kumari & Ors. Vs. The State of Bihar & Ors.), Mr. Kumar Kaushik, learned counsel, appearing on behalf of the appellant in L.P.A. No.1188 of 2015 (Sanjeev Kumar Vs. The Principal Secretary Department of Human Resources Development & Ors.), and Mr. Ajay Bihari Sinha, learned counsel, appearing on behalf of the respondent-University. Heard also Mr. Rajiv Roy, learned Government Pleader No.5, appearing on behalf of the State-respondent, and Mr. Shailesh Kumar, learned counsel, appearing on behalf of the private respondents. We have perused and considered the materials available on the record.

5. Appellant Nos.1, 2 and 3 of L.P.A. No.1052 of 2015 were petitioner Nos.5, 9 and 14, respectively, in C.W.J.C. No.3159 of 2015. Appellant Nos.1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of L.P.A. No.1327 of 2015 were petitioner Nos.2, 3, 6, 8, 11, 12, 13, 14, 16, 20 and 22 of the same C.W.J.C. No.3159 of 2015. These two appeals have been preferred by the writ petitioners of C.W.J.C. No.3159 of 2015 being aggrieved by the same judgment and order passed by the learned single Judge. Appellant of L.P.A. No.1188 of 2015 happened to be the sole petitioner of C.W.J.C. No.2466 of 2015, which came to be dismissed by the order, under appeal, dated 10.02.2015, which has been assailed on his behalf.

6. Facts for adjudication of the present appeals



are short and not much in dispute. The Institute, in question, has been established, under Self-Finance Scheme, on some initiative taken by the Syndicate of the University and is governed by a Managing Committee constituted under the bye-laws of the Institute. The Vice-Chancellor of the University has been designated as the Ex-Officio Chairman of the Managing Council of the Institute, whereas the Registrar of the University as Ex-Officio Member. The Institute was established, in the year 2004, with the issuance of a notification under the orders of the Vice-Chancellor. From the materials available on the record, it appears that the Institute is not entitled to, nor is granted, any financial aid or support from the University or the State of Bihar. After establishment of the Institute, certain employees were appointed, on *contractual basis*, including these appellants. What process was adopted for their appointments is not evincible from the materials available on the record.

7. The records show that it was subsequently resolved by the Managing Council of the Institute to advertise the posts of teaching and non-teaching staff, in the Institute, so as to meet the requirements of All India Council for Technical Education and Government of Bihar in terms of the qualification of such staff. The advertisement was, accordingly, issued inviting applications for



appointment, on *contractual basis*, in the Institute. The advertisement indicated, in clear terms, the number of posts kept reserved for various categories of candidates and the minimum eligibility criteria etc. All the appellants, except appellant No.9 of L.P.A. No.1327 of 2015, had applied pursuant to the said advertisement. Appellant No.9 was petitioner No.16 of C.W.J.C. No.3159 of 2015.

8. The appellants herein approached this Court by filing the writ applications, under Article 226 of the Constitution of India, being aggrieved by issuance of the advertisements, dated 28.01.2015 and 31.01.2015, inviting applications for fresh appointment, on *contractual basis*, on the basic premise that contractual appointments cannot be a valid substitute for already existing contractual appointments. Learned single Judge, by order, dated 02.03.2015, passed in C.W.J.C. No.3159 of 2015, had, as an interim measure, restrained the authorities from making any appointments till further orders. The selection process, in the meanwhile, however, continued.

9. A counter affidavit was filed on behalf of the respondents including the Director of the Institute. She made specific statement, in the counter affidavit, that in response to the advertisement the appellants/writ-petitioners had applied and participated in the process of selection by appearing at the interview held on 20.02.2015.



The writ application, bearing C.W.J.C. No.3159 of 2015, was registered on 24.02.2015. The Director averred, in the said counter affidavit, that some of the writ-petitioners, in fact, got selected. She further asserted, in the counter affidavit, that earlier, no Selection Committee was ever formed for selection/appointment to various Class-III posts and, thus, no selection process was undertaken for appointment of the appellants on *contractual basis*. Out of total 22 Class-III & IV employees, so appointed, 15 persons were found to be wards and relatives of the employees/officers of the University. Their appointments were made in violation of the reservation roster inasmuch as out of 22 Class-III & IV employees, 14 belonged to General Category, only 3 to Backward Category, 2 to Scheduled Castes Category and 1 to Scheduled Tribes Category. In this background, as per the counter affidavit, it was decided to make fresh appointments, on *contractual basis*, but this time, through a process of advertisement and selection by prescribing qualifications, as laid down by the All India Council for Technical Education and Government of Bihar after giving all eligible candidates an opportunity to participate.

10. Learned single Judge, as already indicated above, dismissed the writ application, bearing C.W.J.C. No.3159 of 2015, by the order, under appeal, on the ground that since the appellants had participated in the

process of the selection, they could not be allowed to raise objections against the process of selection itself.

11. In C.W.J.C. No.2466 of 2015, the sole appellant of L.P.A. No.1188 of 2015 (Sanjeev Kumar Vs. The Principal Secretary, Department of Human Resource Development, Government of Bihar, Patna & Ors.), had raised a grievance that the respondents illegally terminated his contract of appointment by an order, which is stigmatic in nature. Learned single Judge, by the order, dated 10.02.2015, under appeal, passed in C.W.J.C. No.2466 2015, dismissed the writ application, holding that the ground, so taken, was misplaced. Learned single Judge also observed in the order, under appeal, that remedy, if any, lies in a suit for damages.

12. Mrs. Nivedita Nirvikar, learned counsel, appearing on behalf of the appellants in L.P.A. No.1052 of 2015 and L.P.A. No.1327 of 2015, has submitted, relying upon various decisions of the Supreme Court and this Court, reported in **(1992) 4 SCC 118 (State of Haryana and Ors. Vs. Piara Singh & Ors.)**, **(2006) 4 SCC 1 (Secretary, State of Karnataka & Ors. Vs. Uma Devi (3) & Ors.)**, **2015 (2) PLJR 453 (Sujitendra Nath Singh Roy Vs. State of West Bengal & Ors.)** and **2015 (2) SC 437 (Amarkant Rai Vs. State of Bihar & Ors.)**, that the action of the respondents to replace the appellants



herein, as contractual appointees, with another set of employees on contract basis, is wholly arbitrary and illegal. She has submitted that the learned single Judge has wrongly invoked the *doctrine of acquiescence* and dismissed the writ application filed by the appellants on the ground that they had participated in the process of selection. She has submitted that the said principle has no application in the facts and circumstances of the present case inasmuch as the appellants had approached this Court, immediately, after publication of advertisement questioning the advertisement itself. She has, accordingly, contended that the said principle of estoppel by conduct or acquiescence could not have been applied by the learned single Judge. In support of her submission she has also relied upon the Supreme Court's decisions, reported in **(1997) 9 SCC 527 (Raj Kumar & Ors. Vs. Shakti Raj & Ors.), AIR 1974 SC 2089 (P. Dasa Muni Reddy Vs. P. Appa Rao)**. Mrs. Nivedita Nirvikar, learned Counsel, has contended that in the present case, the appellants were not left with any option, but to participate in the process of selection inasmuch as they were going to lose their livelihood. She has further submitted that learned single Judge ought to have taken note of the fact that upon being *prima facie* satisfied, the respondents were restrained from making appointment, on the basis of said advertisement, by an

interim order of this Court.

13. Mrs. Nirvikar, learned counsel, has also pointed out that the respondents have provided for 100% reservation, for certain posts, in the said advertisement, which is in violation of Article 16 (4) of the Constitution of India. She submits that a single post could not have been reserved and, in support of this submission, she has placed reliance on the Supreme Court's decisions, reported in **(2011) 4 SCC 120 (State of Uttar Pradesh & Ors. Vs. Bharat Singh & Ors.)**, **(1998) 4 SCC 1 (Post Graduate Institute of Medical Education and Research Vs. Faculty Association & Ors.)** and **1988 (2) SCC 214 (Dr. Chakradhar Paswan Vs. State of Bihar & Ors.)**.

14. Mrs. Nivedita Nirvikar, learned Counsel, has drawn our attention to the advertisement, in question, to contend that single posts of Caretaker, Night Guard and Electrician, reserved for different categories of candidates, under the said advertisement, tantamounts to providing 100% reservation and, therefore, not permissible in law.

15. Mr. Kumar Kaushik, learned counsel, appearing on behalf of the appellant in L.P.A. No.1188 of 2015, has, while assailing the order, dated 10.02.2015, under appeal, passed by the learned single Judge in C.W.J.C. No.2466 of 2015, submitted that the said order is not sustainable in the teeth of Supreme Court's decision in

the case of "**Gridco Limited & Anr. Vs. Sri Sadananda Doloi & Ors.**", reported in 2012 (1) PLJR SC 321. He has contended that it was not open to the respondents to substitute one set of contractual appointments by another such set of appellants.

16. Mr. Ajay Bihari Sinha, learned counsel, appearing on behalf of the University, on the other hand, contends that it was noticed by the authorities of the University that contractual appointments of various persons, in the Institute, including these appellants, were made arbitrarily, whimsically and without following any norms or procedure and even the reservation roster was given a go-bye. He has submitted that those, who had been earlier working on *contract basis*, including these appellants, were also given opportunity to participate in the process of selection. He has contended that out of 35 candidates selected on the basis of advertisement in question, 27 candidates are those, who were earlier engaged on *contractual basis* from the year 2007-2012 and only 8 new candidates have been selected purely on the basis of their respective merits.

17. We find from the records, as has been pointed out by the learned counsel, appearing on behalf of the appellants, that one post of Accountant and one post of Librarian were shown to be unreserved. It is the grievance



of the appellants that these posts have, however, been filled up by candidates belonging to reserved categories. It has further been pointed out that against 11 unreserved posts, 9 posts have been filled up by the candidates belonging to various reserved categories. It has, accordingly, been argued that the respondents have acted in breach of the reservation policy. This submission is not at all acceptable to us, in absence of any plea that the candidates, belonging to reserved categories, have not been appointed against unreserved posts, on the basis of their own merit, rather, on the basis of their status of belonging to one or the other reserved-category. It is well settled that a candidate, belonging to a reserved category, can be selected and appointed against unreserved seats if he qualifies to be so selected on the basis of his own merit and not on the basis of his status as a reserved category candidate.

18. Much emphasis has been laid on the submission that one set of contractual appointees ought not to have been substituted by another set of contractual appointees. There is no material on record to show that these appellants were appointed on contractual basis after following any procedure prescribed under the law. In the absence of any material to this effect, they cannot claim any right to hold the post on *contract basis* till the posts are



filled up on permanent basis. The matter would have been different, had the appellants been appointed on *contractual basis* after following due procedure in conformity with the requirements of Articles 14 and 16 of the Constitution of India and they were being replaced by another set of employees, again, on *contractual basis*, with the same qualification, following similar selection process.

19. In the present case, the facts are entirely different. The appellants were appointed without following any selection process conforming with the requirements of Articles 14 and 16 of the Constitution of India. At least, nothing has been brought to our notice to show that any process of fair selection was adopted on the basis of which these appellants were appointed. The respondents decided to replace them by appointing another set of employees upon following due procedure through open advertisement and a process of selection. The appellants were also given an opportunity to participate in the process of selection, which they availed. The general principle that one set of *contractual appointments* cannot be substituted by another set of *contractual appointments*, will have no application in the present set of facts and circumstances of the case inasmuch as the respondents have, in effect, intended to replace the illegal appointments through appointments after following due procedure of selection based on merit in tune

with the provisions of Articles 14 and 16 of the Constitution of India.

20. The Supreme Court's decisions relied upon by learned counsel, appearing on behalf of the appellants, in support of her contention, as have been noticed above, will not apply to the present facts and circumstances of the case, where the action of the respondents amounts to undoing the illegality earlier done in the matter of appointment on *contractual basis* and making appointment, though on *contractual basis*, through open advertisement and after following a fair process of selection.

21. Mr. Kumar Kaushik, learned counsel, appearing on behalf of the sole appellant in L.P.A. No.1188 of 2015 (Sanjeev Kumar Vs. The Principal Secretary, Department of Human Resource Development, Government of Bihar, Patna & Ors.), has drawn our attention to the impugned order, dated 09.12.2014, issued by the University, terminating the contract of his engagement, in order to contend that the said decision is stigmatic in nature. It has been argued that no such order could have been passed by the respondents without giving this appellant an opportunity of hearing since the said order entails civil consequences adverse to the interest of the appellant.

22. We have perused the impugned order,



dated 09.12.2014, and we notice that his service, on *contractual basis*, has been terminated on the ground that his service was not found to be satisfactory. The reason, assigned in the order, for termination of the appellant's service, cannot be said to be stigmatic in nature. Termination of contract of appointment of this appellant cannot be said to be violative of any law. Learned single Judge, in the order, under appeal, has observed that for breach of contract, if any, the appellant had the remedy in a civil suit. We do not find any compelling reason to take a different view than what has been taken by learned single Judge in the present *intra*-Court appeal.

23. There is, however, substance in the submission, made on behalf of the appellants, in assailing the process of selection, to the extent that a solitary post could not have been reserved for the purpose of appointment as it amounts to providing 100% reservation. From the advertisement, we find that one post, each of Assistant and System Analyst, were reserved for Extremely Backward Class. Similarly, one post of Computer Operator was shown to be reserved for Backward Class. We also find that some of Class-IV posts, namely, Gardener, Caretaker, Night Guard and Electrician, were shown to be reserved for different categories of candidates. This, in our considered view, is not permissible in law. These posts, in the facts

and circumstances of the case, could not be clubbed together for the purpose of determining the extent of reservation for the simple reason that different qualifications have been prescribed for different posts as is evident from the advertisement itself.

24. We, accordingly, direct the Director of the Institute and the Registrar of the University to re-advertise such posts, which were singular and were shown to be reserved for different categories, in the said advertisement, by inviting fresh applications without making any provision for reservation. The present incumbents, selected and appointed on the basis of the said advertisement, will be eligible to apply, but their selection shall be based on their respective merits only. Their continuance, as contractual employees in the Institute, shall depend upon the outcome of a fresh selection process, to be carried in the light of the present judgment, with respect to only such solitary post, which had been shown to be reserved. If in the light of present judgment, they succeed in the process of selection, they would continue; or else, they shall cease to work/function from the date fresh appointments are made after selection.

25. We direct the respondents to initiate the process of selection by way of advertisement confined to such posts, which were wrongly treated to be reserved,

though being solitary in nature, and conclude it positively within a period of three months from today. It goes without saying that the appellants shall have liberty to apply, if they fulfill the criteria, as prescribed in the earlier advertisement, brought on record by way of Annexure-6 to C.W.J.C. No.3159 of 2015 (Jay Prakash Singh & Ors. Vs. The State of Bihar & Ors.). If within the period prescribed, the respondents fail to conclude the process of selection, in the light of present judgment, the persons, appointed on those posts, shall cease to function.

26. We do not find any reason to interfere with the said order, in the present facts and circumstances of the case, since there is no dispute over the fact that initial engagement of the appellants itself were without following any procedure prescribed by the law.

27. These appeals are, accordingly, disposed of. The orders, under appeal, stand modified accordingly.

(Chakradhari Sharan Singh, J.)

I. A. Ansari, ACJ.- I agree

(I. A. Ansari, ACJ.)

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