

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13063 of 2012**

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Mahesh Sharma S/O Late Janeshwar Sharma Resident Of Jagdamba Bhawan (Opposite Agrawal High School) P.G. Road, Belganj, P.S-Belaganj, District- Gaya.

.... .... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Urban Development Department, Govt. Of Bihar, Patna.
2. The Chief Engineer, Bihar Urban Development and Housing Department, Vikash Bhawan, New Secretariat, Patna.
3. The Chief Engineer, Urban Development Department Government of Bihar, Patna.
4. The Superintending Engineer, Urban Development Department, Government of Bihar, Patna.
5. The District Urban Development Authority, Gaya through Its Chairman District Magistrate, Gaya.
6. The District Magistrate, Gaya.
7. K.P. Singh S/O not known to the petitioner, the Executive Engineer, District Urban Development Authority, Gaya.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dinu Kumar  
Mr. Santosh Kumar  
Mr. Rajesh Kumar  
Mr. Shiv Kumar Prabhakar  
For the respondent nos. 1 to 6 Mr. Roy Shivajee Nath, AAG-3  
For respondent no.7 Mr. Abhinay Raj

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**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR**  
**MANDAL**  
**ORAL ORDER**

9      12-01-2016      Heard.

The application seeks appropriate writ in the nature of quo warranto prohibiting respondent no.7 from functioning as Executive Engineer, DUDA, Gaya. It is stated that respondent no.7 was absorbed in the government service on the post of Assistant Engineer in 2012. However, he is illegally allowed to

function as the In-charge Executive Engineer, although in the same scale of pay.

Per contra, Mr. Abhinay Raj submits that initially the petitioner along with others was absorbed in the government service under the orders of the division bench some time in 2011 but subsequently the government by issuing appropriate order treated him to have been absorbed in the employment of the State Government since 1994 vide memo no. 3956 dated 03.08.2015.

Counter affidavit filed by the State respondent, on the other hand, states that after having been absorbed in government service the petitioner was treated as Assistant Engineer but was allowed to discharge the duty/work of Executive Engineer in the salary of Assistant Engineer.

Mr. Abhinay Raj the counsel appearing for the respondent no.7 referring to diverse statements made in the counter affidavit filed by him, states that his matter for promotion on the post of Executive Engineer is under active consideration of the State Governments. Same is the stand taken by the State respondent in the counter affidavit.

Having considered the materials on record, it appears to this Court that the petitioner has at best been allowed to work as Executive Engineer on several occasions on officiating/In-charge

basis. Indisputably, the respondent no.7 continues to draw salary of the post of Assistant Engineer. Such posting as I/C Executive Engineer without salary of the post can be made in administrative exigencies.

This Court, in the facts of the case, is not persuaded to grant the application. Dismissed.

**(Kishore Kumar Mandal, J)**

HR/-

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