

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.433 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 2017 of 2010**

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Md. Rais Khan, son of Md. Akhtar Ali Khan, Resident of Village- Dashbachak,
P.S. Fatehpur, District- Gaya.

.... Petitioner /Appellant

Versus

1. The State of Bihar through the District Magistrate, Gaya.
2. The Deputy Collector (Establishment), Gay, Collectorate, District- Gaya.
3. The Deputy Collector (Nazarath), Gaya Collectorate, Distt.- Gaya.

....Respondents - Respondents

4. Binod Kumar Thakur, son of Late Shyamdeo Thakur, Resident of- Shanti Niketan Vidyalaya, Baljori Bigha, Katari, P.S.-Katari, District- Gaya.
5. Binod Bihari, son of Sri Ramotar Singh, Resident of Village- Guriyaba, P.S. Mohanpur, District- Gaya.
6. Shahid Hasan Khan, son of Md. Abdul Hasan Khan, Resident of Village- Karhara, P.S. Sheghati, District- Gaya.
7. Ashok Kumar Singh, son of Sri Deonandan Prasad Singh, Resident of- Babura Kothi, Ghughnitand, Dandibagh, P.S. Chanchura, District- Gaya.
8. Ram Dahin Sao, son of Late Gaya Sao, Resident of Village- Saedpur Bazar, Khizarsarai, P.S. Khizarsarai, District- Gaya.
9. Raju Rajak, son of Late Briksh Rajak, Resident of Village- Saedpur Bazar, Khizarsarai, P.S. Khizarsarai, District- Gaya.
10. Suresh Chaudhary, S/o Late Munshi Chaudhary, Resident of Village- Basathi, Tola-Sabalpur, P.S. Bodh Gaya, District- Gaya.
11. Nand Lal Ram, son of Sri Ram Krit Ram, Resident of Village- Ram Nagar, P.S. Tekari, District- Gaya.
12. Ashok Kumar, son of Late Rajendra Prasad, Resident- C/o Prof. Balkrishna Chitragupta Gali, Maharani Road, P.S. Sadar, District- Gaya.
13. Suresh Prasad, son of Sri Jagdish Prasad, Resident of Mohalla- Narayanchua, P.S. Chanchura, District- Gaya.

.....Petitioners Respondents

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Appearance :

For the Appellant/s : Mr. Shailesh Kumar

For the Respondent/s : Mr. Ravi Verma

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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: 11-07-2016

The order dated 10th August, 2010 passed by the learned

Single Bench in CWJC No. 2017 of 2010 is the subject matter of challenge in the present Letters Patent Appeal. The appellant has sought quashing of draft panel of Class IV post prepared against Advertisement No. 1/NAZ/2004, Gaya dated 23rd May, 2008.

The learned Single Bench dismissed the writ petition primarily on the ground that panel was prepared on 23rd May, 2008 and the life of the panel was one year as the appellant challenged the panel after expiry of one year, i.e., 13th February, 2010. The writ application was dismissed for the reason that no appointment can be given in 2010 from any panel prepared on 23.05.2008.

Learned counsel for the appellant refers to an order passed by the Single Bench in CWJC No. 17766 of 2009 (Sanjay Singh vs. The State of Bihar & Ors.) decided on 30th June, 2010, whereby the candidature of a candidate was directed to be considered in the light of the direction contained therein.

A perusal of the order shows that the writ applicant in the aforesaid case was an applicant against Advertisement No. 18/2000 but the panel prepared was quashed by the High Court. A direction was issued to prepare a fresh panel. The grievance of the writ applicant was that while preparing fresh panel the name of the writ applicant has been left out, therefore, his name should be considered in the fresh panel dated 21st October, 2008. The Court thus allowed

the writ application. Following the said order, two Division Benches have given similar direction in CWJC No. 719 of 2011 and CWJC No.11384 of 2008.

We find that the said orders provide little assistance to the arguments raised on behalf of the appellant as in the case referred, the writ applicant was a candidate and that after the selection process was set aside by the High Court there was a direction to prepare a fresh panel. But there is no such fact nor there is any direction to include the writ applicant nor the panel prepared was set aside.

We find that no candidate has any right for appointment or for that matter to be included in the panel to seek appointment merely because he applied for a post. It is not the case of the appellant that any person lower in merit has been included in the panel. Though Sanjay Singh's case is distinguishable, but even otherwise no such direction could be issued for including the name of the candidate in a panel when no illegality in the selection process has been pointed out or any person lower in merit has been included in the panel. Mere submission of an application for appointment does not give any right of appointment but only confers right of consideration with all other candidates. The appellant has not pointed out that he has not been treated fairly in preparing the panel for appointment. There is no such foundation laid down in the writ application.

In view thereof, we do not find any merit in the present appeal. The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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