

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1971 of 2016
IN
Civil Writ Jurisdiction Case No. 8341 of 2014**

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1. Lal Bhadur Sah S/o Chutahru Sah resident of Village- Basha, P.S.- Pipra District- Supaul.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Director, Social Welfare Directorate Irrigation Bhawan, Bihar, Patna.
3. The Commissioner Koshi Division, Saharsa.
4. The District Magistrate, Supaul.
5. The Deputy Development Commissioner, Supaul.
6. The Senior Deputy Collector Supaul.
7. The Assistant Director, Social Security, Supaul.
8. Madhu Rani W/o Binod Sah resident of village- Tekuna P.S.- Pratapganj, District- Supaul.
9. Santosh Kumar Jha S/o Shyamal Kishor Jha Resident of village- Kahra (Madanpur), P.S.- Saur Bazar, District- Saharsa.
10. Ram Kishor Sahni S/o Bauae Lal Sahni Resident of village- Diyanatpur, P.S.- Vibhutipur, District- Samastipur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Singh, Advocate
For the Respondent/s : Mr. Kaushal Kr.Jha-AAG-8

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 28-06-2017

Seeking exception to an order dated 5.9.2016 passed



by the learned Writ Court in C.W.J.C. No.8341 of 2014, this appeal has been filed under Clause 10 of the Letters Patent.

By an advertisement the recruitment process for appointment on contract basis was undertaken in the year 2011, the appointment process was completed and when certain posts remained vacant due to non-joining of some of the selected candidates, the writ petition was filed and the learned Writ Court held that merely because some selected persons have not joined, orders of appointment cannot be issued and the posts in question have to be filled up by conducting fresh appointment process and we are informed today that the fresh appointment process has commenced. The order passed by the learned Writ Court is in accordance to the law laid down by the Hon'ble Supreme Court in the case of Manoj Manu And Anr. vs. Union of India And Ors., (2013) 12 SCC 171 and Raj Rishi Mehra & Ors. vs. State of Punjab And Ors., (2013) 12 SCC 243, wherein it has been clearly held that the posts which remain unfilled due to non-joining of the selected candidates cannot be filled up from the waiting list and it has to be filled up by conducting the selection process afresh.

That being the legal position and the respondents having already advertised the post, we see no reason to make any



indulgence into the matter.

The appeal is, therefore, disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
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