

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1473 of 2013

In

Civil Writ Jurisdiction Case No. 19865 of 2011

With

Interlocutory Application No. 8143 of 2013

- =====
1. The State Of Bihar through the Principal Secretary, Patna
 2. The Divisional Commissioner, Munger
 3. The District Magistrate, Lakhisarai
 4. The Deputy Development Commissioner, Lakhisarai

.... Appellant/s

Versus

Ashok Kumar Mishra Son Of Late Ramakant Mishra Resident Of Village-Bindwara, Po And Ps- Kashim Bazar, District- Munger

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. S.P. Singh, GA-3

For the Respondent/s : Mr. Rajeev Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

4 23-02-2017

Heard counsel for the appellants representing the State and the counsel for the respondent.

Delay of 134 days in filing this appeal is condoned. I.A. No. 8143 of 2013 is allowed. The matter is thereafter taken up on merits.

Submission of the counsel for the State with regard to the impugned order dated 30th April, 2013 passed in the writ application is that there are no vacancies, which is required to be filled up. The appointments have already been done, therefore, there was no occasion for the learned Single Judge to give a direction for appointment on the post of driver.

The learned Single Judge has found that the private respondent was discriminated illegally and for malafide reason and deliberately shown at serial no. 15 when his rightful place was at serial no. 5 in the merit list. This



position has also been certified by the Divisional Commissioner in service appeal of the private respondent and a direction was issued to the District Magistrate, Lakhisarai to do the needful and it was only on failure of the concerned authority to implement the directive of the Divisional Commissioner, the writ was filed.

It was in this background that the learned Single Judge has given the above direction to the District Magistrate to appoint the private respondent treating him to be at par with Sri Ashok Kumar Ram who came to be appointed by passing the claim of the private respondent.

The appeal, therefore, has no merit. It is, accordingly, dismissed.

Let the District Magistrate, Lakhisarai implement the order of the learned Single Judge forthwith without further delay.

(Ajay Kumar Tripathi, J)

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(Nilu Agrawal, J)

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