

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1248 of 2014
IN
Civil Writ Jurisdiction Case No. 10160 of 2011**

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1. Sudhir Kumar son of Babujee Mandal resident of village Rani Patti, P.S. Murliganj, Distt. Madhepura.
 2. Sanju Soren son of Shri Hari Soren resident of village Godhiya Ghat, P.S. Murliganj, Distt. Madhepura.
 3. Rajeshwar Mandal son of Shri Bhikhar Mandal resident of village Sadhua, P.S. & Distt. Madhepura.
 4. Shyam Lal Soren son of Shri Chutka Soren resident of village Pakhram P.S. Murliganj, Distt. Madhepura.
 5. Bhupendra Thakur son of Satya Narayan Thakur resident of village Jittapur, P.S. Murliganj, Distt. Madhepura.
 6. Barku Murmu son of Shri Supal Murmu resident of village Pokhran, P.S. Murliganj, Distt. Madhepura.
 7. Babu Lal Murmu son of Bijal Murmu resident of village Bagharia, P.S. Murliganj, Distt. Madhepura.
 8. Chandra Kishore Besra son of Deban Lal Besra resident of village & P.O. Joregama, Godhiyaghat, P.S. Murliganj, Distt. Madhepura.
 9. Dinesh Baski son of Mangal Baski resident of village & P.O. Joregama, P.S. Murliganj, Distt. Madhepura.
 10. Surya Narayan Tuddu son of Chandra Tuddu resident of village Sahpur, P.S. Sahpur, Distt. Madhepura.
 11. Baiju Hansda son of Shri Juppa Hansda resident of village Sahpur, P.S. Sahpur, Distt. Madhepura.
 12. Chandra Shekhar Tuddu son of Shri Basta Tuddu resident of village Bardela and P.S. Bardela, Distt. Purnia.
 13. Prithvi Chand Hansda son of late Asho Hansda resident of village Haripur Tinkonma, P.S. Murliganj, Distt. Madhepura.
 14. Thithar Mahto son of Shri Bhagwan Mahto resident of village Belhaghat, P.S. & Distt. Madhepura.
 15. Renu Kumari-II Daughter of Buchi Rai Resident of Madhepura, Ward No. - 6, P.S. + District - Madhepura.
 16. Ganesh Murmu son of Shri Bhubneshwar Murmu resident of village Baghaniya, P.S. Murliganj, Distt. Madhepura.
 17. Jitendra Soren son of Shri Thakur Soren Village & P.O. Joregama, P.S. Murliganj, Distt. Madhepura.
 18. Shrawan Kumar son of Shri Rakjee Mukhia resident of village Belhaghat, P.S. & Distt. Madhepura.
 19. Naresh Kumar Tuddu @ Naresh Tuddu son of Shri Kanhai Tuddu Village Haripur Tinkonma, P.S. Murliganj, Distt. Madhepura.
 20. Meena Kumar @ Meena Devi wife of Gorelal Tuddu resident of village Haripur Tinkonma, P.S. Murliganj, Distt. Madhepura.
 21. Ratan Kumar Hansda son of Rupen Hansda resident of village Singiyan, P.S. Murliganj, Distt. Madhepura.
 22. Shankar Kumar Hambram son of Shri Surya Narayan Hmebram resident of village Dinapatti, P.S. Murliganj, Distt. Madhepura.
 23. Suraj Kumar Marandi son of Shri Chotelal Marandi resident of village Dinapatti, P.S. Murliganj, Distt. Madhepura.



24. Renu Kumari -I wife of Shri Prabhu Mahto resident of Madhepura, Ward No. 6, P.S. & Distt. Madhepura.
25. Jagannath Mukhia son of late Sanjay Mukhia resident of village Pathraha, P.S. Kumarkand, Distt. Madhepura.
26. Dhanraj Mukhia son of Jagannath Mukhia resident of village Pathraha, P.S. Kumarkand, Distt. Madhepura.

.... Appellants

Versus

1. The State of Bihar through the Principal Secretary, Home (Police), Government of Bihar, Patna.
2. The Commissioner, Koshi Division, Saharsa.
3. The District Magistrate-cum-Collector, Madhepura.
4. Hari Charan Murmu S/o Sri Lal Murmu R/o vill - Rani Patti, P.S. - Kumarkhand, Distt. - Madhepura.

.... Respondents

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Appearance :

For the Appellants : Mr. Ashok Kumar Singh, Senior Advocate
Mr. Prabhat Kumar Singh, Advocate
For the Respondent State: Mr. Abul Kalam, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 20-04-2017

Heard learned Senior Counsel, who has argued the matter with a lot of vehemence, but the previous litigation and even the order and direction of the Hon'ble Supreme Court cannot be wished away. It has to be implemented in letter and spirit and when the same was sought to be done by issuance of a fresh advertisement, the new legal battle was initiated by these appellants on a ground which are totally untenable and that is the reason why the learned single Judge dismissed the writ application in following terms: -

“Having heard learned counsels for the parties, this Court is of the view that the respondents have not committed any error in issuing the advertisement



under the new Rules of 2006, in terms of the directions of the Apex Court, by dividing available vacancies in reservation category as per the percentage of reservation applicable on the date of issue of advertisement. The judgment, relied upon by learned senior counsel for the petitioners, is clearly not applicable in the present case. In the said case, the question was of initiation of fresh execution proceeding in a court of law after lapse of the earlier proceeding. The Apex Court held that though technically the application may be a fresh proceeding, but in effect it was in continuation of the earlier proceeding.

Here under the orders of this Court, and also affirmed by the Apex Court, fresh advertisement has been issued. Therefore, clearly, the law of reservation, as applicable on the date of advertisement, has to be applied. In the circumstances, this Court does not find any error in the advertisement issued by the respondents, as contained in Annexure-17, and, therefore, does not find any merit in the writ application and the same is dismissed. The respondents are directed to proceed with the selection process initiated through the said advertisement and complete the same as expeditiously as possible.”

In the opinion of this Bench the learned single Judge has stated the correct law, therefore, no interference is warranted with the impugned order dated 11.02.2014.



Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.04.2017
Transmission Date	N/A

