

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.33 of 2016

IN

Civil Writ Jurisdiction Case No. 14386 of 2009

- =====
1. The State Of Bihar through the Director, Primary Education, Govt. of Bihar, New Secretariat, Patna.
 2. The District Superintendent of Education-cum-Coordinator, Kishanganj, District-Kishanganj at present District Programme Officer, Education Department, Kishanganj.
 3. The District Magistrate-cum-Collector, District-Kishanganj.
 4. The Sub-Divisional Officer, Kishanganj, District-Kishanganj.
 5. The District Welfare Officer, Kishanganj, District-Kishanganj.
- Appellant/s

Versus

1. Ratan Kumar, son of Shri Anant Prasad Basak, R/o Village-Kasera Patti Road, Ward No.6, P.S.-Kishanganj, District-Kishanganj.
 2. Dhyani Paswan, son of late Baiju Paswan, P.O.& P.S.-Kishanganj, District-Kishanganj.
 3. Nagendra Prasad Yadav, Headmaster Primary School Deksara, Kishanganj.
- Respondent/s
- =====

Appearance :

For the Appellant/s : Mr. Ajeet Kumar, GA-9.
Mr. Manoj Kumar Sinha, AC to GA-9
For the Respondent/s : Mr. Vinay Krishna Tripathy, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 29-11-2017

While dealing with the similar matter in an appeal preferred by the State of Bihar where the facts and issues were more or less identical to the issue raised in the present appeal again by the State of Bihar, a Division Bench of this Court has had this to say:-

“The writ petition was filed by the respondent employee challenging the finding of Scrutiny Committee in the General Administration Department, Government of Bihar. The respondent was enjoying the status of Scheduled Caste employee



on being issued a Caste Certificate of “Chaupal”, which is a Scheduled Caste notified by the Central Government under the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976. The respondent was issued with the certificate by the Block Development Officer and subsequently by the Sub-Divisional Officer in the year 1996-97 and it is an admitted position that based on the certificate issued he was granted appointment after verification of the same. Even the issuance of the Caste Certificate was after intervention of this Court. However, holding that the respondent belongs to Taanti Caste and, therefore, the certificate produced by him showing him to be a “Chaupal” and based on which he was granted appointment is unsustainable, the impugned action has been taken. However, the learned Writ Court not only in this case but also in various other cases, identical in nature, after considering various aspects of the matter has recorded a conclusion that “Chaupal” is a caste under which different sub-castes like Pan, Swasi, Tanti and Tantwa etc. exist and the expert body, statutory in nature, constituted by the State Government, has found so and that is why a recommendation was made for exclusion of Tanti and Tantwa from the list of E.B.C. and include them in the list of Scheduled Caste.

Once the finding recorded is that “Chaupal” is the caste under which various sub-castes like Pan,



Swasi, Tanti and Tantwa exist and when these castes have been included in the category of sub-castes and when the Government notification itself shows that Chaupal is a Scheduled Caste, we see no reason to make any indulgence into the matter moreso, when identical questions involved have already been decided by various Benches of this Court in C.W.J.C. No.10650 of 2015, C.W.J.C. No.15612 of 2014, upheld in L.P.A. No.309 of 2016 and various other cases as are detailed in the order passed by a coordinate Bench of this Court on 24.04.2017 in L.P.A. No.309 of 2016.”

The position rightly taken note of by the Division Bench in L.P.A. No.794 of 2016 cannot alter from case to case. In view of the same, the present appeal, preferred by the State against the order of the learned Single Judge dated 20.09.2013, does not require any interference.

Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
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