

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1111 of 2014

IN

Civil Writ Jurisdiction Case No. 8473 of 2009

- =====
1. Dr. Dig Vijay Narayan Singh Son of Sri Shyam Narayan Singh Resident of Village and Post- Maheshi, District- Muzaffarpur.
 2. Dr. Shailesh Singh Son of Late Hari Har Singh Resident of Village- Khanpur Raghubar, Post- Jakhanian, P.S.- Sadiabad, District- Gazipur (UP)
 3. Dr. Lakshman Thakur Son of Sona Lal Thakur Resident of Rajju Sah Lane No. 3, Ramna, Post- Ramna, District- Muzaffarpur.
 4. Dr. Meena Thakur Wife of Nagendra Thakur at & PO- Atardal, District- Muzaffarpur.
 5. Mrs. Veena Ray W/o Late Shree Narayan Rai resident of Shree Nursing Home Shekhpura, Akhara Ghat, P.S.- Ahiyapur, District- Muzaffarpur.

.... Appellants

Versus

1. The State of Bihar through the Secretary, Ministry of Health, Government of Bihar, New Secretariat, Patna.
2. The Health Commissioner, Department of Health, Government of Bihar, New Secretariat, Patna.
3. The Director Desi Chikitsa, New Secretariat, Baily Road, Patna.
4. The Deputy Director Homeopathy, New Secretariat, Baily Road, Patna.
5. The Principal, Rai Bahadur Tunki Shah Government Homeopathy Medical College and Hospital, Muzaffarpur.

.... Respondents

With

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Letters Patent Appeal No. 1012 of 2016

IN

Civil Writ Jurisdiction Case No. 6486 of 2010

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1. Dr. Prem Chandra Jha Son of Sri Uday Kant Jha Singh Resident of Village - Koriyahi PS - Sursand District - Sitamarhi.
 2. Jagdish Prasad Son of Late Basudeo Prasad Resident of Village - Ranipur PS - Islampur District - Nalanda.
 3. Dr. Smt Kumkum Pradhan Wife of Sri B. Prasad Resident of Village - Aamgola PS - Town District - Muzaffarpur presently resident of Sector - 1/B Quarter No. 14/26, Bokaro Steel City, Bokaro.

.... Appellants

Versus

1. The State of Bihar through the Secretary, Ministry of Health, Government of Bihar, New Secretariat, Patna.
2. The Health Commissioner, Department of Health, Government of Bihar, New Secretariat, Patna.
3. The Director Desi Chikitsa, New Secretariat, Bailey Road, Patna.
4. The Deputy Director Homeopathy, New Secretariat, Bailey Road, Patna.
5. The Principal, Rai Bahadur Tunki Shah Government Homeopathy Medical College and Hospital, Muzaffarpur.
6. Dr. Binod Bihari Mishra Son of Late Pramod Mishra R/o Village - Lakhisarai Cahandwar, Muzaffarpur, P.S. - Town, District - Muzaffarpur.



7. Abhay Kumar Jha Son of Late Sri Sabhapati Jha R/o Village - Gamahariya, P.S. - Pachrukhi, District - Siwan.

.... Respondents

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Appearance :

(In both appeals)

For the Appellants : Mr. Munna Pd Dixit (M.P. Dixit), Advocate
Mr. S.K.Dixit, Advocate
Mr. Sanjay Kumar Choubey, Advocate
Mr. Shailendra Kumar, Advocate
Mr. Sunil Kumar, Advocate

For the Respondents : Mr. Anil Kumar Singh, Advocate

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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: 26-04-2017

Both the appeals arise out of a common order dated 20th January, 2014, passed by the learned single Judge, who after hearing the parties decided to dismiss the writ applications primarily on the ground that for the same said relief for appointment on the posts, in what is known as Rai Bahadur Tunki Shah Government Homeopathic Medical College and Hospital, established in Muzaffarpur, has already been adjudicated not once but twice right up-till the Hon'ble Apex Court which refused to grant any relief in the previous rounds of litigations. The learned single Judge could not ignore or override or re-interpret those orders to find a via media to grant relief to these appellants. The learned single Judge has observed as under:

“Learned counsel for the petitioners is not in a position to show that any persons appointed on or



after 29.1.1981 was taken over by the State Government. Those persons 33 and 81 in number were appointed before 29.1.1981 which was recognized by the Division Bench and there was dispute in between two classes of the same group. As the Government was creating dispute which the Court has refused to accept the stand of the Government.

This Court is not inclined to accept the plea of the petitioners as they have already tested their cases up-to Hon'ble Supreme Court. Now this Court cannot reopen the issue which has been dealt with and settled in the judgment passed by this Court and Hon'ble Supreme Court.

Learned counsel for the petitioner submits that in view of the observation given by the Hon'ble Supreme Court their cases ought to have been considered by the Government and has placed reliance on the order dated 2.3.2012 passed in C.W.J.C. No.12742 of 2011.

It is a fact that the petitioners have already crossed the age of 50 and they have never approached the Hon'ble Supreme Court making a grievance that the Government has not followed by the observation of that Court. However, if any fresh appointment is made their cases would be considered but this Court is not given any opinion or direction or any observation that it will be treated that they would be appointed by the



Government subject to suitability to the post.”

After having heard learned counsel for the appellants, we are not impressed by the line of argument being pressed now that there is infirmity in the order of the learned single Judge in dismissing the writ application and not allowing relief.

The Court is of the opinion that via media are being sought to be found to overcome the binding effect of the earlier adjudications made by the High Court and affirmed by the Hon’ble Supreme Court.

Both the appeals, therefore, deserve to be dismissed as they are totally devoid of merit.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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