

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1756 of 2011

In

Civil Writ Jurisdiction Case No.4875 of 2007

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The State Of Bihar

... .. Appellant/s

Versus

1. Rajendra Kumar S/O Gobardhan Singh R/O Tal Bazar, P.O.- Kalpa, P.S.- Jahanabad, District- Jahanabad
2. The Bihar State Agriculture Marketing Board Through The Administrator Pant Bhawan, Bailey Road, Patna
3. The Administrator Bihar State Agriculture Marketing Board, Pant Bhawan, Bailey Road, Patna
4. The Secretary Bihar State Agriculture Markeint Board (Abolished), Pant Bhawan, Bailey Road, Patna
5. The Sub-Divisional Officer, Jahanabad-Cum-Special Officer Office Of The Agriculture Produce Market, Jahanabad

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. BRAJESH KR.(AC-AAG11)

For the Respondent/s : Mr. B.K.SINGH CHAUHAN

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-09-2017

Office objections are ignored.

Challenge in this appeal under Clause 10 of the Letters Patent is made to an order dated 30th of November, 2009 passed by the learned Writ Court in C.W.J.C. No.4875 of 2017. Against the order passed by the learned Writ Court, two appeals were filed. One was L.P.A. No.1328 of 2010 by the Bihar State Agriculture



Marketing Board and another L.P.A. No.1756 of 2011, the present one, by the State of Bihar. As far as L.P.A. No.1328 of 2010 is concerned, a co-ordinate Bench of this Court on 16.7.2015 has considered various aspects of the matter and the appeal has been disposed of in the following terms:

“3. The status of the petitioner was required to be decided by the committee constituted under the Repeal Act. The issue should have been referred to the committee by the learned Single Judge instead of acting on behalf of the committee in adjudicating the status of the petitioner.

4. If the decision of the learned Single Judge is allowed to stand then the adjudication would confer a benefit on the petitioner beyond the ambit of the statute of the Repeal Act. The decision rendered by the learned Single Judge is also in teeth of various Division Bench decisions on the identical point.

5. The impugned order dated 30.11.2009 is set aside. Appeal is allowed. The petitioner-respondent is relegated to the three member committee constituted under the Repeal Act for a decision on his status, if he moves the three member committee on his status as an employee of the erstwhile Marketing Board. The committee must take a decision within a period of three months from the date of filing of such an application with a copy of this order.”



After the impugned order dated 30th of November, 2009 has been set aside by the Division Bench, we are apprised that during the pendency of the matter the Hon'ble Supreme Court in the case of Nand Kumar Vs. State of Bihar, 2014 (5) SCC 300 has also delved on this issue.

Be that as it may, as the co-ordinate Bench in L.P.A. No.1328 of 2010 has referred the matter to an appropriate Committee, we see no reason to take a different view.

We dispose of this appeal also in the same terms as indicated hereinabove vide order dated 16.7.2015 in L.P.A. No.1328 of 2010. However, the Committee while taking a decision, apart from considering the observations made by the Division Bench, shall also take note of the principle laid down by the Hon'ble Supreme Court in the case of Nand Kumar (supra) and proceed to decide the question.

With the aforesaid, these appeals are disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
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