

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.400 of 2014
IN
Civil Writ Jurisdiction Case No. 18473 of 2012**

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1. Pramod Kumar Son Of Late Girija Nandan Prasad Resident Of House No.185,
Manas Marg, North S.K. Puri, Patna - 800 013

.... Appellant/s

Versus

1. Bihar School Examination Board, Patna Through Its Secretary
2. The Chairman, Bihar School Examination Board Patna
3. The Secretary, Bihar School Examination Board Patna
4. The Principal Secretary, Human Resources Development Department,
Government Of Bihar, Patna
5. The Director, Secondary Education, Government Of Bihar, Patna
6. Abhay Nath Jha Son Of Sri Bishwanath Jha Resident Of Village - Karnpur, P.S.
Andhrathari, District - Madhubani
7. Umanath Jha Son Of Late Laxmi Kant Jha Resident Of Village - Harari, P.S.
Andhrathari, District - Madhubani

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Jitendra Singh, Sr. Advocate Mr. Harsh
For the State	:	Mr. Ajay Bihari Sinha
For the Respondent 6-7:	:	Mr. Chittaranjan Sinha, Sr. Advocate Mr. Binodanand Mishra, Advocate
For the Board:	:	Mr. Piyush Lal

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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: 20-03-2017

The appellant, Pramod Kumar, was permitted to file the present appeal vide order dated 24.04.2014, when the matter was earlier taken up by a Bench of this Court.

The appeal is now taken up on merits, which is directed against the order, dated 19.12.2012, passed in C. W. J. C. No. 18473 of 2012.



The private-respondent nos. 6 and 7 were the petitioners before the Learned Single Judge and they were aggrieved by the decision, dated 12.09.2012, taken by the authorities of Bihar School Examination Board, to revert them to the post of Assistant or Routine Clerk from the post of Section Officer. The matter was heard in detail and keeping in mind the statutory provisions after repeal of the Act and abolition of the erstwhile Intermediate Council, where the private-respondents were initially appointed and the decision of the Legislature to absorb such employees of the Intermediate Council, the writ application was allowed. The impugned order was set aside and direction was given to continue / adjust / absorb the services of the private-respondents on the post of Section Officer in Bihar School Examination Board.

This appellant filed the appeal for the reason that he apprehends and perceives some kind of threat to his status and continuance on the post of Section Officer. The attack is especially on the direction issued by the Learned Single Judge to give effect to the order from the date the Repealing Act of 2007 came into place. In fact the relevant operative paragraph reads as under:

“42. Accordingly, this writ petition is allowed and the impugned order, so far it relates to the petitioners, is quashed and the Board and its authorities are hereby directed to adjust / absorb the services of the petitioners on the posts of Section Officers or on any post of the same scale in the Board and to give all such benefits to them of the said posts from the date, on which the



Council was abolished and its functions were directed to be discharged by the Board by the Repealing Act of 2007.”

Despite giving an extended hearing to learned senior counsel, representing the appellant, the core issue as to what is the apprehension or immediate damage, which is being caused by the order of the Learned Single Judge, has not been made clear to the Bench. A self-perceived kind of fall out upon the appellant cannot send this Court on some kind of an expedition to find the apprehended damage and resolve an issue in abstract.

Therefore, the challenge thrown to the impugned order by the appellant is totally misplaced. No interference is warranted with the order of the Learned Single Judge and the appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	22.03.2017
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