

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.172 of 2014
In
Civil Writ Jurisdiction Case No.418 of 2007

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1. Raj Ballabh Prasad Son Of Shri Sudarshan Prasad Resident Of Village - Telchha, Police Station - Dhorn Asthan, Janta Bazar, District - Saran
 2. Sant Lal Singh Son Of Ramashray Prasad Singh Resident Of Village - Siuri, Police Station - Masrakh, District - Saran
 3. Rajkishore Prasad Sahoo Son Of Shri Ghanshyam Prasad Sahu Resident Of Village - War, Police Station - Madanpur, District - Aurangabad
 4. Ashutosh Kumar Son Of Shri Ram Rashik Ram Resident Of Town - Aurangabad, District - Aurangabad
 5. Gopal Chandra Mahanta Son Of Shri Jagannath Mahanta Resident Of Mohalla - Gudri Raj Ke Chowk, Chhapra Town, Police Station - Bhagwan, Bazar, District - Saran
 6. Hemant Kumar Das Son Of Shri Kanu Charan Das Resident Of Mohalla - Dahiyawan Chhapra Town, Police Station - Chhapra Sadar, District - Saran
 7. Pandab Charan Mahanto Son Of Shri Raghunath Mahto Resident Of Mohalla - Bharat Milap Chowk, Chhapra Town, Police Station - Bhagwan Bazar, District - Saran

... .. Appellant/s

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna
2. Secretary, Food, Supply And Commerce Department Of The Government Of Bihar, Patna
3. Commissioner, Saran Division, Chhapra
4. DDFCS, Saran Division, Chhapra
5. Awadhesh Kumar Singh Son Of Late Gopal Singh Resident Of Town - Chhapra, P.S. Chhapra, Dist. Saran

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Abhinav Srivastava, Advocate Mr. Rajesh Kumar Singh, Advocate
For the Respondents	:	Mr. AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 03-11-2017

We have heard the detailed arguments made on behalf of the appellants against the impugned order dated 14.07.2011 passed by the learned single Judge in C.W.J.C. No. 418 of 2007 as well as the counsel for the State.

Despite a valiant effort made by the learned counsel for the appellants and even after re-looking into the annexures and the documentations, which were brought on record with the writ application, to re-verify whether the finding of the learned single Judge that there were no post of Class-III and Class-IV sanctioned or created in the office of the Deputy Director, Food and Civil Supplies, Saran Division at Chapra, we do not find the said finding to be erroneous. The posts in question were not sanctioned, any appointment made in anticipation of such sanction and giving the justification of work pressure cannot make such appointment to be legal and valid.

It was for this reason, after all the permutation and commutation of decisions that the learned single Judge arrived at the conclusion that since the post in question was not sanctioned, the decision of the Divisional Commissioner holding that the



appointments were bad in law and out and out illegal was not interfered with and rightly so.

However, the learned single Judge has certain observations to make keeping in mind that the appellants may not have a contribution to make to their fate, the relevant paragraph in this regard is paragraph 5 which reads as under :

“5. Before parting with this order this Court would like to observe that there is no dispute that the office of Deputy Director, Food, Supply and Commerce, Saran Division at Chapra was established in the year 1981 when Saran Division was created. It is also not in dispute that in other divisions of the State in the office of the Deputy Director, Food, Supply and Commerce supporting Class-III, IV posts have been created, as such, for the office of the Deputy Director, Food, Supply and Commerce, Saran Division at Chapra as and when such posts are sanctioned by the competent authority in the State Government, the case of the petitioners shall be considered for appointment against those posts giving them not only the benefit of age relaxation but also preference in appointment in view of the working experience earned by them by serving in the said office.”



Let the appellants move the State Government with regard to the observations made by the learned single Judge to take a call on the issue within the framework of the observations.

Appeal is otherwise dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

AFR/NAFR	N.A.F.R.
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