

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.971 of 2016
IN
Civil Writ Jurisdiction Case No. 3600 of 2013**

- =====
1. Dr. Ravinder Prasad Singh, son of Ram Kritarth resident of village- Cheron, Police Station- Sarmera, District- Nalanda, at present Working as District Indigenous Medical Officer, Patna, Department of Health, Government of Bihar.
 2. Dr. Bharat Upadhyay, Son of Late Anand Van Upadhyay, Resident of Village- Suhawal District- Gajipur in the State of U.P. presently working as District Indigenous Medical Officer, Bhojpur, at Ara, Department, of Health, Government of Bihar.
 3. Krishna Mohan Choubey, son of Late Kedar Nath Choubey, resident of Village- Sonpa, Police Station- Rajpur, District- Police Station- Rajpur, District- Begusarai, Presently Posted as District Indigenous Medical Officer, at Hajipur.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Health Govt. of Bihar, Patna.
3. The Secretary, Department of Family Welfare In-charge Ayush, Govt. of Bihar, Patna.
4. The Joint Secretary, Department of Family Welfare, In-charge Ayush, Govt. of Bihar, Patna.
5. The Principal Secretary, Department of Finance Govt. of Bihar, Patna.
6. The Accountant General, Bihar, Patna.
7. Dr. Shyam Sundar Singh, son of not Known to the appellant present working as Director, Indigenous Medicine Department, Department of Health Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s :

For the Respondent/s : Mr. S.D. Yadav, AAG-IX
Mr. Prem Ranjan Kumar, AC to AAG-IX

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-07-2017

None appears for the appellant. Shri S.D.Yadav appears
for the respondent.



Delay of 167 days in filing the appeal is condoned. I.A. No.3577 of 2016 is allowed.

Seeking exception to an order dated 7.5.2014 passed by the learned Writ Court in C.W.J.C. No.3600 of 2013, this appeal has been filed under Clause 10 of the Letters Patent.

The grievance of the petitioners in the writ petition was that a Rule framed under Article 309 of the Constitution by the Bihar District Ayush Medical/State Ayush Medical Service (Appointment on Regular/Contract Basis and Service Conditions) Rules, 2010 is not being implemented by the State Government and contrary to the said Rule, respondent No.7 in the writ petition one Dr. Shyam Sundar Singh has been appointed and challenging his appointment, the writ petition was filed.

As far as the appointment of respondent No.7 is concerned, the learned Writ Court went into various aspects of the matter, certain orders passed in earlier litigation with regard to promotion of respondent No.7 and finally found that respondent No.7 has now retired and, therefore, with regard to promotion and on account of respondent No.7, the Court did not make any indulgence. However, after retirement of respondent No.7 for filling up the vacancy so created, it was indicated that the matter is pending before the Finance Department and after approval from the Finance



Department, the Statutory Rules would be implemented. Thus, directing for filling up the vacancy after approval from the Finance Department within three months, the writ petition was disposed of.

Taking note of the aforesaid aspects of the matter and the order passed, we see no reason to make indulgence now, particularly with regard to appointment of respondent No.7 who has attained the age of superannuation and has retired.

Accordingly, finding no merit, the appeal is dismissed. However, with regard to direction issued for implementing the Rules and taking action within three months, in case the same has not been done, the State Government to expedite the aforesaid action and ensure implementation within a reasonable period.

With the aforesaid, this appeal is disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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