

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.753 of 2014

IN

Civil Writ Jurisdiction Case No. 22758 of 2012

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1. Brajbhusan Singh Son of Late Suryadeo Singh Resident of Village - Sarai, Post Office - Bhajpatta, Via - Sarai, Police Station - Sarai, District - Vaishali.
 2. Mahendra Prasad Rai Son of Shri Kunat Rai Resident of Village - Bawanghat, Post Office - Awalpur, Via - Sigara, Police Station - Mahua, District - Vaishali.
 3. Anzarul Haque Son of Late Abdul Barkat Resident of Village - Sabeya (Beej Utpadan Sahayak - Seed Production Assistant), Police Station - Ramnagar, District - West Champaran.
 4. Lalbabu Mahato Son of Late Gowardhan Mahato Resident of Village - Maldahiya, Post Office - Narkatiaganj, Police Station - Shikarpur, District - West Champaran.
 5. Muneshwar Prasad Singh Son of Late Ganju Singh Resident of Village - Bettiah Chhawani, Post Office and Police Station - Bettiah, District - West Champaran.
 6. Rama Shankar Tiwary Son of Late Rajnarain Tiwari Resident of Village - Champapur, Vila - Ramgarhwa, Police Station - Ramgarhwa, District - East Champaran.
 7. Brajnandan Singh Yadav Son of Late Chintaman Singh Yadav Resident of Village - Bettiah Chhawani, Post Office and Police Station - Bettiah, District - West Champaran.
 8. Ramnarain Prasad Mehta Son of Late Babulal Mehta Resident of Village - Lautan, Post Office - T.C. Ka, Dholi, Police Station - Sakara, District - Muzaffarpur.
 9. Parashuram Pandit Son of Late Nanipat Pandit Resident of Village - Kerma Raghavram, Post Office - Kerma, Police Station - Kurhani, District - Muzaffarpur.
 10. Shambhu Sharan Prasad Son of Late Satyanarain Rai Resident of Village - Chargarhwa, Post Office - Kumaria Estate, Via - Harinagar, Police Station - Ramnagar, District - West Champaran.
 11. Akhileshwar Bhakta Son of Sri Manjni Bhagat Resident of Village - Banthu, Post Office - Satpura, Police Station - Bhagwanpur, District - Vaishali.
 12. Azimuddin Ansari Son of Late Mohabbat Miyan Resident of Village - Gidha, Post Office - Choubey Tola, Police Station - Chanpatia, District - West Champaran.
 13. Kanhaiya Lal Prasad Son of Late Ganesh Prasad Sah Resident of Village - Khiriaghat Bettiah, Post Office and Police Station - Bettiah, District - West Champaran.
 14. Md. Musa Son of Late Mohammad Hasan Resident of Village - Bagani, Post Office - Bagahi, Police Station - Lauria, District - West Champaran.
 15. Maqsud Alam Son of Late Nurul Hasan Resident of Village at and Post Office - Bagahi, Police Station - Lauria, District - West Champaran.
 16. Md. Vakil Son of Late Sheikh Mohammadin Resident of Village at and Post Office - Telpur, Police Station - Kauriya, District - West Champaran.
 17. Emamul Hasan Son of Late Abdul Barkat Resident of Village - Sabeya, Rampur, District - West Champaran.
 18. Mishrilal Rai Madhukar Son of Shri Ramchandra Rai Resident of Village - Shankarpur, Post Office and Police Station - Mahua, District - Vaishali.
 19. Nagendra Prasad Gupta Son of Late Dilip Sah Resident of Village - Khaptola, Post Office - Bhitaha, Police Station - Thakraha, District - West Champaran.
 20. Hari Prasad Choudhary Son of Late Chaturi Choudhari Resident of Village -



Pachgawan, Post Office - Semrabhedroul, Police Station - Dhanaha, District - West Champaran.

21. Rameshwar Prasad Son of Late Hari Prasad Resident of At and Post Office Village - Dumra, Police Station - Lauriya, District - West Champaran.

22. Phudan Rai Son of Late Kodai Rai Resident of Village - Mahua Mukundpur, Post Office and Police Station - Mahua, District - Vaishali.

23. Shyam Nandan Singh Son of Late Kalicharan Singh Resident of Village - Purainiya, Post Office - Sudiauta, Via - Lalganj, Police Station - Lalganj, District - Vaishali.

24. Bishundeo Yadav Son of Late Tanuk Lal Yadav Resident of Village - Naulakhi, Post Office - Naulakhi, Police Station - Jankinagar, District - Purnea.

25. Haribol Prasad Yadav Son of Late Govind Lal Yadav Resident of Village - Mahendrapur, Post Office - Bhogabhatgama, Police Station - Purnia, District - Purnia.

26. Jagdish Thakur Son of Late Dinanath Thakur Resident of Village - Saharsa, Post Office and Police Station - Saharsa, District - Saharsa.

27. Ramadhar Bhagat Son of Late Akalu Bhagat Resident of Village - Bhotia, Post Office - Damgaha, Police Station - Dhamdaha, District - Purnea.

.... Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Department of Agriculture, Government of Bihar, Patna.

2. The Principal Secretary, Cane Industry Department, Government of Bihar, Patna.

3. The Under Secretary to the Government of Bihar, Cane Industries Department, Government of Bihar, Patna.

4. The Director, Agriculture, Government of Bihar, Patna.

5. The Cane Commissioner, Government of Bihar, Patna.

6. The Cane Development Officer (Industry), Cane Department, Government of Bihar, Patna.

7. The Principal Secretary, Department of Finance, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Swaraj Kr. Ghosh, Senior Advocate
Mr. Rajni Kant Jha, Advocate
Mr. Sunil Kumar, Advocate

For the Respondent/s : Mr. Kundan Bhadur Singh, SC-22

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-05-2017

Seeking exception to an order dated 06.03.2014 passed by
the Writ Court in CWJC No.22758 of 2012; this appeal has been filed



under Clause 10 of the Letters Patent.

Petitioners seeking parity with *Jan Sewaks* working in the Agriculture Department in the matter of grant of benefit of ACP submitted representations and when the representations were rejected on 23rd of August, 2012, vide Annexure-7, a cause accrued to the petitioners to file a writ petition in question and after hearing all concerned, the learned Writ Court took note of the fact that the question of discrimination or the consequential question of considering discrimination in the matter of grant of promotion would arise only if the Statutory Rules are available for grant of promotion and a Court of law cannot issue a mandamus for creation of Rules and cadres. Observing so, the writ petition was disposed of. However, now from the supplementary affidavit filed by the petitioners on 13th April, 2017, we find that Sugarcane Industries Department Non-Gazetted Cadre (Appointment and Service Conditions) Rules, 2016 has been formulated vide Annexure-8 to the supplementary affidavit and the Rules have been brought into force with effect from 27.10.2016.

That being so, in view of the aforesaid changed circumstances, interest of justice would be met in case the competent authority authorised under the Rules to take action for considering the case of the petitioners for grant of ACP considers the case of the petitioners and take a decision with regard to the same within a period



of two months from the date of receipt of a certified copy of this order and pass appropriate order. Needless to emphasize, still aggrieved by such consideration, the petitioners or the appellants herein would have liberty to assail the same in accordance to the Rules.

With the aforesaid liberty to the petitioners to approach the departmental authorities for grant of promotion now in accordance to the Rules, we dispose of the matter.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.05.2017
Transmission Date	

