

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.81 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 2532 of 2014**

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Deo Prakash S/O Ramji Seth, Resident Of Village- Madarichack, P.O+ P.S-
Mehasi, District- East Champaran.

.... Appellant/s

Versus

1. The State of Bihar
2. The District Magistrate, East Champaran, Motihari.
3. The Officer-on- Special Duty, District Confidential Section, East Champaran,
Motihari.
4. The Sub Divisional Officer, Chakia, East Champaran.
5. The District Panchayat Raj Officer, East Champaran, Motihari.
6. The Executive Officer, Nagar Panchayat, Mehasi, East Champaran.
7. The Chairman, Nagar Panchayat, Mehasi, East Champaran.

.... Respondent/s

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Appearance :

For the Appellant : Mr. Ajay Kumar Singh No.1, Advocate
For Respondents 1 to 5 : Mr. Dharendra Kumar, AC to AAG-6
For NagarPanchayat Mehasi : Mr. Sanjay Kumar, Advocate

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT**

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 14-02-2017

The challenge in the present Letters Patent Appeal is to
an order passed by the learned Single Bench on 9th of October, 2015
in C.W.J.C. No. 2532 of 2014 whereby, the writ application was
dismissed.

2. In the writ application, the appellant had sought



appointment on the post of Peon after the vacancy arose on account of removal of one Birendra Rai.

3. In a process for appointment to fill up certain posts for Nagar Panchayat, Mehasi, the appellant did not make it to the merit and was not appointed. One Birendra Rai was appointed, who was removed from service later on. It is thereafter, the appellant again started making representation for appointment against the vacancy so created by the removal of Birendra Rai. The learned Single Bench has found that the vacancy so created cannot be filled up on the basis of the merit list prepared earlier as such vacancy has to be filled up after an advertisement is issued and opportunity is given to all eligible candidates who applied for consideration of appointment.

4. We do not find any illegality in the order passed by the learned Single Bench. Once the appointments are made, the selection list cannot be used as a reservoir for making appointment as and when any vacancy arises. Any vacancy has to be filled up in accordance with the principles of filling up of the posts by an advertisement and by giving an opportunity to all eligible candidates who applied for consideration of appointment.

5. In view of the said fact, the vacancy which arose on account of removal of Birendra Rai cannot be filled up on the basis



of select list prepared earlier point in time.

6. We do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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