

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.648 of 2014
IN
Civil Writ Jurisdiction Case No. 21129 of 2011**

=====

1. Subodh Rajak son of Sri Shivjee Rajak, resident of Village + P.O.+P.S.- Rajapakar, District- Vaishali
2. Manish Kumar Paswan @ Manish Kumar son of Sri Bhagwan Paswan, resident of Village- Karaitar, P.O. Samsa, P.S. Bakhari, District- Begusarai
3. Shushil Kumar Hembrum son of Sri Barka Hembram, resident of Village- Dhodhri, P.O.- Shivpur Logai, P.S.- Haveli Kharagpur, District- Munger
4. Anuj Kumar son of Sri Bhuvaneshwar Mandal, resident of Village- Lailakh, P.O.- Mamlakha, P.S. Sabour, District- Bhagalpur
5. Maya Ram Malakar, son of Sri Maheshwar Malakar, resident of Village- Dhyanchakki, P.O. Bagras, P.S. Bakhari, District- Begusarai

.... Appellants

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
3. The Deputy Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
4. The Principal Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna
5. The Additional Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
6. The District Magistrate, Begusarai
7. The Additional Collector, Begusarai
8. Narayan Bhagat, son of Late Ram Krishna Bhagar, Resident of Village Chakaur, P.S. Matihani, District- Begusarai
9. Priyadarshi Manoj Son of Nand Kishore Singh. Resident of Village Sihma, P.S. Matihani, District- Begusarai
10. Mani Bhushan Kumar, Son of Ram Prakash Singh Resident of Village Sihma, P.S. Matihani, District- Begusarai
11. Chitranjan Kumar, Son of Sachidanand Prasad Singh, Resident of Village Safapur, P.S. Nayagaon, District Begusarai
12. Ajay Kumar Mishra, Son of Pulkit Mishra, Resident of Village Anandpur, P.S. Mufasil, District- Begusarai
13. Shambhu Chandra Diwakar, Son of of Shri Shankar Poddar, Resident of Village- Sahana Kashinathpur, P.S. Sahebpur Kamal, District Begusarai
14. Dilip Kumar Sinha, Son of Late Rajendra Prasad, Resident of Village Lohianagar, P.S. Mufasil, District Begusarai

.... Respondents

=====

Appearance :

For the Appellant/s : Mr. Lakshmi Kant Tiwary
For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**



ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 18-03-2017

Delay of 65 days in preferring the appeal is condoned.

I.A. No. 3281 of 2014 is allowed.

The advertisement contained in Annexure-3 was for appointment on contract for a limited period on the post of Amin. The case of these appellants is that they came to be selected and appointed. However, without hearing them, the advertisement itself was set aside by the learned single Judge, which had a direct fall out on their appointment as Amin in the district of Begusarai.

The learned single Judge vide order dated 20.12.2013 allowed the writ application and set aside the advertisement on the ground that it provided for 100% reservation with no opening for the general category candidates. There were many candidates, who were also working on temporary basis for years together and, therefore, they thought it to be an opportunity for getting a kind of permanent post in the substantive capacity as Amin.

The Court has seen the advertisement as well as the reservation against which six posts have been allocated. A reading of the said advertisement does indicate that it was a case of 100% reservation and, therefore, in the constitutional scheme of things, the advertisement was vulnerable and, therefore, the learned single



Judge did no wrong by quashing the said advertisement, which obviously, has a fall out on the selection too.

Since the very foundation of the advertisement was in violation of Article 14 and 16 of the Constitution of India including the judgments relating to reservation and the extent of reservation, it will have a fall out. The Court, therefore, will not set aside the order dated 20.12.2013 under challenge in the appeal on the ground that these appellants have been hit by the said decision without hearing them.

It is made clear that these appointments was on contract for a limited period and was not a permanent appointment under the State, therefore, no substantive right as such have been lost. If steps are been taken thereafter to fill up the post on regular basis, they will be free to participate in such exercise if they fulfill the requirements of the advertisement, as and when the process is undertaken.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.03.2017
Transmission Date	N/A

