

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1400 of 2016

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1. Mokhtar Ahmad, Son of late Md. Safiq, Resident of Village - Fatehpur Kamali,
P.O. + P.S. Mahnar, District - Vaishali at Hajipur
2. Chandra Shekhar Rai, Son of Sri Ram Rai @ Ram Ratan Rai, Resident of Village
– Fatehpur, P.O. + P.S. Mahnar, District - Vaishali at Hajipur

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Urban Development and Housing
Government of Bihar, Patna
3. The Secretary to the Govt. Department of Urban Development and Housing
Bihar, Patna
4. The Deputy Secretary to the Govt. Department of Urban Development and
Housing Govt. of Bihar, Patna
5. The District Magistrate, Vaishali at Hajipur
6. The District Welfare Officer, Vaishali at Hajipur
7. The Executive Officer Nagar Panchayat, Mahnar, Vaishali at Hajipur

.... Respondent/s

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Appearance :

For the Appellants : Mr. Rajendra Prasad Singh, Sr. Advocate
For the State : Mr. Maruth Nath Roy, A.C. to S.C. 4
For Respondent No. 7 : Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-06-2017

Seeking exception to an order dated 20th of April, 2015
passed by the learned Writ Court in C.W.J.C. No. 3508 of 2014, the
appeal in question has been filed by the appellants.

2. Appellants were appointed in the Mahnar Nagar
Nigam on the post of Mistri and Sepahi sometimes in the year 1997
and consequently their services were terminated on 06.01.2014 and



15.01.2014 respectively finding their appointment to be illegal and by recording a finding that they have been appointed by conduct of various illegal processes.

3. Even though learned counsel for the appellants vehemently argued that the findings recorded by the learned Writ Court in this regard are not correct, we find, on scanning the records and the detailed order passed by the learned Writ Court, running to 24 pages, that after the appointment process was undertaken, various complaints were made. The Lokayukta Organization and the State Government ordered inquiry into the matter pertaining to appointment to the Nagar Nigam in question and in the inquiry conducted, it was found that the entire process of appointment stands vitiated. Proper advertisement as per the rules and the process of appointment was not undertaken and based on the finding recorded in the inquiry holding the entire process of selection to be vitiated, the writ petition has been dismissed.

4. We find the learned Writ Court to have considered various aspects of the matter correctly and no reason to make any indulgence into the matter. As far as the contention of the appellants to say that in the inquiry conducted the Executive Officer has been exonerated and therefore, the benefit should also be granted to the appellants is concerned, we find that in the inquiry conducted against



the Executive Officer, it was found that certain errors committed by him have not been properly established and, therefore, benefit of doubt has been granted to him but at the same time various illegalities found in the appointment of the appellants, particularly in the matter of issuance of the advertisement, conduct of the selection process and the discrepancies in issuance of the appointment order have not been disturbed. That being so, once in a detailed inquiry conducted, not only by the department but also by the Lokayukta Organization, the entire selection process with regard to appointment of the appellants is found to be illegal, we see no reason to make any indulgence into the matter.

5. The Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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