

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2744 of 2017

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1. Bhrigunath Prasad, Son of Late Krishna Prasad, Resident of Village- Balbaniya, P.S.- Bihiya, District- Bhojpur.
 2. Bhim Prasad, Son of Ramnath Prasad Singh, Resident of Village- Hetampur, P.S.- Tithar, District- Bhojpur.
 3. Pradeep Kumar Jha, Son of Shardanand Jha, Resident of Village- Basauli, P.S.- Rahika, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Secretary, Water Resources Department, Govt. of Bihar, Sichai Bhawaan, Patna-1.
3. The Commissioner-cum-Secretary, Water Resources Department, Govt. of Bihar, Sichai Bhawaan, Patna-1.
4. The Engineer-in-Chief, North Bihar, Water Resources Department, Govt. of Bihar, Sichai Bhawaan, Patna-1.
5. The Chief Engineer, Water Resources Department, Govt. of Bihar, Siwan.
6. The Executive Engineer, Balmiki Nagar, Water Resources Department, Govt. of Bihar, Sichai Bhawaan, Patna-1.
7. The Executive Engineer, Saran Nahar Pramandal, Water Resources Department, Govt. of Bihar, Sichai Bhawaan, Patna-1.
8. The Executive Engineer, Saran Nahar Pramandal, Gandak Project, Chapra, P.S.- Chapra, District- Saran at Chapra.
9. The Executive Engineer, Water Resources Department, Saran Pramandal, P.S. & District Saran, Chapra.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Surendra Kishore Thakur
Mr. Alok Kumar Jha
For the Respondent/s : Mr. ANJANI KUMAR, AAG-4
Mr. Sanjay Pd., A.C. to AAG-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 20-03-2018

The petitioners by way of the present writ petition have prayed for quashing of the letter no. 146 dated 27.01.2017, whereby and whereunder the claim of the petitioners for regularization has been rejected merely on the ground that the petitioners had failed to submit any proof or



document to show that they fulfilled the requisite parameters for the purposes of regularization, as laid down in the Constitution Bench judgment rendered by the Hon'ble Apex Court in the case of **Uma Devi vs. State of Karnataka**, reported in **2006(2) PLJR (SC) 363**.

The learned counsel for the petitioners raises a short issue for consideration to the effect that the petitioners were neither granted any opportunity of being heard nor for producing any evidence, as required, under the judgment rendered by the Hon'ble Apex Court in the case of Uma Devi (supra), hence a direction be issued to the respondents to hear the petitioners and consider the evidence to be brought on record by them and thereafter pass the final order with regard to the grievances of the petitioners pertaining to their regularization of services.

The learned counsel for the State states that since the petitioners were not appointed initially against the sanctioned post, they do not have any right for regularization. I find from the records that nothing has been brought on record to suggest that either the petitioners were heard or were granted opportunity to lead evidence, as required, under the aforesaid judgment rendered by the Hon'ble Apex Court in the case of Uma Devi (supra), before passing the impugned order dated 27.01.2017, hence the same is based on falsehood, thus is perverse and unsustainable in the eyes of Law.

Having heard the learned counsel for the parties and having regard to the facts and circumstances of the case as also the discussion made hereinabove, I deem it fit and proper to quash the impugned letter no.



146 dated 27.01.2017, issued by the Executive Engineer, Saran Canal Division, Chapra and remand the matter to him so as to give an opportunity of hearing to the petitioners as also time to produce the requisite evidence, to buttress their case for regularization. It is accordingly directed that the petitioner shall file appropriate representation along with the requisite documents and evidence, within two weeks from today, before the Executive Engineer, Saran Canal Division, Chapra and the said Executive Engineer shall, after affording an opportunity of hearing to the petitioners, dispose off the matter by a reasoned and speaking order within a period of eight weeks from today.

The writ petition is disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.03.2018
Transmission Date	

