

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.587 of 2014

In
Civil Writ Jurisdiction Case No.13178 of 2012

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1. The State of Bihar
 2. The Principal Secretary, Home Department, Govt. of Bihar, Patna.
 3. The Joint Secretary, Home (Special), Govt. of Bihar, Patna.
 4. The District Magistrate, Arwal.
 5. The Superintendent Of Police, Arwal.
 6. The Deputy Collector (Establishment), Arwal.

... .. Appellant/s

Versus

Sobha Devi, Wife of Late Sushil Kumar @ Sunil Kumar, Resident of Village - Majidpur, P.O. Pariari, P.S. Kinzar, District - Arwal.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Md. Irshad

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 : 07-02-2018

Heard learned counsel for the State and learned counsel for the private respondent.

A very pointed submission has been made by Mr. M.N.H. Khan, learned Standing Counsel No. 1 representing the appellants-State that the circular, based on which benefit has been extended to the private respondent vide order dated 19.11.2013 by the learned Single Judge, stood quashed by a decision rendered in the case of Dharam Shila Kuer Vs. State of Bihar and others, reported in 2002(3) PLJR 497. This order was rendered as far back on 01.07.2002.



Counsel for the State submits that the decision of the learned Single Judge was upheld by a Division Bench and this decision was brought on record along with counter affidavit. However, the learned Single Judge without taking notice of this fact passed the order in favour of private respondent giving benefit of compassionate appointment along with cost of Rs. 10,000/-.

A significant argument, therefore, has been made on behalf of the State that a circular, which has been declared to be bad and in violation by a judicial declaration more than a decade before issue was dealt by the learned Single Judge, the same could not be made the basis for granting the relief.

We are not inclined to go into the other issues in view of the above position noted by us. The appeal stands allowed on this ground alone. The impugned order dated 19.11.2013 stands set aside.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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