

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20321 of 2014

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1. Sarika Kumari Wife of Dhiraj Kumar resident of Village - Serajpur, Post Office - Temtha, Police Station - Parbatta in the District of Khagaria.
 2. Nivedita Devi Wife of Bulul Chaudhary alias Shailendra Chaudhary, Resident of Village - Serajpur Post Office Temtha Police Station Parbatta in the District of Khagaria.
 3. Pampam Kumari Wife of Munna Choudhary, Resident of Village - Serajpur, Post Office Temtha, Police Station - Parbatta in the district of Khagaria.
 4. Geeta Kumari Wife of Sanjay Prasad Gupta, Resident of Village Post Office Temtha, Police Station - Parbatta in the District of Khagaria.
 5. Ragini Kumari Wife of Shyam Sundar Sah, Resident of Village Post Office Temtha, Police Station - Parbatta in the District of Khagaria.
 6. Sultana Khatoon Wife of Md. Khurshid Khan, Resident of Village and Post Office Temtha, Police Station Parbatta in the District of Khagaria.

.... Petitioners

Versus

1. The Principal Secretary, Social Welfare Department Government of Bihar, Patna.
2. The Director, Integrated Child Development Scheme, Social Welfare Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Patna
4. The District Magistrate, Khagaria
5. The Additional District Magistrate, Khagaria
6. The District Programme Officer, Khagaria
7. The Child Development Project Officer, Parbatta in the dist. of Khagaria
8. Rupam Kumari Wife of Shri Uday Choudhary, Resident of Village - Sirajpur, Police Station - Parbatta in the District of Khagaria.
9. Piyush Kumari Wife of Mahendra Choudhary, Resident of Village Sirajpur, Police Station - Parbatta in the district of Khagaria.
10. Archana Devi Wife of Suman Kumar, Resident of Village - Sirajpur, Police Station - Parbatta in the District of Khagaria.
11. Fulwati Devi Wife of Arjun Yadav, Resident of Village - Temtha, Police Station Parbatta in the District of Khagaria.
12. Nisha Kumari Wife of Sanjay Kumar, Resident of Village - Temtha, Police Station Parbatta in the District of Khagaria.
13. Asha Devi Wife of Kamaldeo Thakur, Resident of Village - Jankichak, Police Station Parbatta in the District of Khagaria.
14. Nilam Kumari Wife of Kapildeo Mandal, Resident of Village - Sri Rampur Thuthi, Police Station - Parbatta in the District of Khagaria.
15. Jyoti Kumari Wife of Upendra Mandal, Resident of Village - Sri Rampur Thuthi, Police Station - Parbatta in the District of Khagaria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. K.N. Choubey, Sr. Advocate
Mr. Dineshwar Pandey, Advocate
Mr. Animesh Kumar, Advocate
Ms. Ritu Priyadarshiny, Advocate



For the Respondent/s : Mr. Ajay Bihari Sinha, Advocate
Mr. Suryakant Kumar, A.C. to G.A.8
Mr. Shailesh Kumar Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 29-08-2018

This writ application has been filed for quashing the order dated 17.11.2014 passed by the learned District Judge, Khagaria in Title Appeal No.10 of 2014, whereby and whereunder prayer of the petitioners to grant leave to appeal was refused and the appeal was dismissed.

2. Heard learned counsels for the petitioners and the respondents.

3. It appears that the respondent nos. 8 to 15 filed Title Suit No. 18 of 2012 against the respondents nos. 1 to 7 for declaration that the order removing the plaintiffs from the post of Anganbari Sevika issued by the respondent (State of Bihar) was illegal, baseless and against the natural justice. The said suit was decreed ex-parte against the State of Bihar and the State of Bihar filed Title Appeal No. 04 of 2015 which is presently pending before the court below.

4. The learned counsel for the petitioners submits that the plaintiffs of Title Suit No. 18 of 2012 were appointed as Anganbari Sevikas by the State of Bihar. They were removed from the service



and in their place the petitioners were appointed. The suit was filed without impleading these petitioners as party to the suit and on account of decree passed by court below the petitioners have seriously been prejudiced. The learned counsel for the petitioners referred paragraph 41 of the judgment passed in Title Suit No. 18 of 2012 to show that the panel appointing these petitioners as Anganbari Sevikas has been cancelled by the learned Munsif, Khagaria and so it has become necessary for the petitioners to challenge the said final order passed by the court below. The petitioners filed Title Appeal No. 10 of 2014 before the court below and prayed for leave to appeal which has been rejected by the learned District Judge.

5. The learned counsel for the respondents, on the other hand, submits that these petitioners who were not party to the suit have no *locus standi* to file appeal. These petitioners had filed a petition under Order I Rule 10 of CPC for being impleaded as defendants in the said suit. The learned court below rejected the said petition by order dated 23.08.2013. These petitioners being aggrieved by said order filed CWJC No.19286 of 2013 which after hearing was dismissed on 11.03.2014. This Court while dismissing the said writ application observed that the main dispute in Title Suit No.18 of 2012 is between the plaintiffs and the State of Bihar as the



plaintiffs were removed from the services of Anganbari Sevika. The petitioners were appointed after termination of plaintiffs and so these petitioners had or have no cause of action against the State of Bihar or the plaintiffs of Title Suit No.18 of 2012. The learned District Judge considering these facts has rightly refused to grant leave to appeal to the petitioners as they were neither party to the suit nor their prayer to add them as defendants was allowed. The order of this Court passed in CWJC No. 19286 of 2013 is final. The learned lower appellate court considering the entire facts has rightly refused to grant leave to the petitioners to file appeal.

6. In view of above discussions I do not find any merit in this writ application and the same is, accordingly, dismissed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	31.08.2018
Transmission Date	

