

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1136 of 2014

In

Civil Writ Jurisdiction Case No.8877 of 2012

-
-
1. The State of Bihar through the Director General of Police, Bihar, Patna.
 2. Inspector General of Police, Bihar Military Police, Bihar, Patna.
 3. Additional Director General of Police, Bihar Military Police, Bihar, Patna.
 4. The Deputy Inspector General of Police, Muzaffarpur.
 5. The Commandant, Bihar Military Police - 7, Katihar.

... .. Appellant/s

Versus

Shivbhajan Pal son of Ramdular Pal resident of village - Jhashi, P.S. Chandawli, P.O. - Ladua, District - Chandawli (U.P.)

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mritunjay Kumar

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.

Appeal of the State has been preferred against the order dated 05.07.2012, passed by the learned Single Judge, who allowed the writ application in a very cursory and summary fashion and set aside the order of termination issued against the private respondent.

The short facts are that the private respondent was appointed under the so called sports quota being an outstanding sportsman in



wrestling. This exercise was supposed to have been done under police order No. 122.

Taking judicial note of the facts that large scale appointments of such kind, which primarily were manipulated by the then D.G. Police, Government of Bihar, became subject matter of challenge, such decisions for appointment were held to be illegal and in this regard attention of the Court has been drawn by learned counsel for the appellant about the two decisions rendered in the case of ***Sudhir Kumar Vs. State of Bihar & Ors.*** reported in **2000(3) PLJR 717** where such appointments were held to be bad keeping in mind the relevant provisions, especially Rule 661 of the Bihar Police Manual wherein no special power is vested in the D.G. for making recommendations or appointment. It is the committee which has to make such appointments. It may be noted that, that decision also stood affirmed by the Division Bench in L.P.A. No. 1496 and 1514 of 2001 vide order dated 02.01.2002.

Yet another decision is the decision rendered in the case of ***Ram Narayan Harijan and Anr. Vs. The State of Bihar & Ors.*** reported in **2003(3) PLJR 158** where the learned Single Judge again took the same view.

Effort has been made on behalf of the private respondent that the two cases quoted above are distinguishable because it is not a



case of general appointment of constables under the Bihar Police Manual but a special recruitment meant for outstanding sportsman under police order No. 122, which are supposed to be statutory in nature.

The Court has gone through the said police order and we cannot overlook Clause 4 of the said police order. There also an advertisement and selection by a committee has been envisaged and it nowhere gives special power to the D.G. Police to make backdoor appointment.

Obviously, the learned Single Judge did not take note of all these facts and in a very short and swift manner set aside the order of termination passed way back in the year 2003 which was done in the facts and circumstances noted above.

The appeal of the State succeeds for the reasons indicated above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.02.2018
Transmission Date	NA

