

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.131 of 2017

IN

Civil Writ Jurisdiction Case No. 5711 of 2015

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Mithilesh Mishra, son of Lakhan Mishra, resident of Village + Post
- Darkha, P.S. - Sikandra, District - Jamui.

.... Petitioner/Appellant

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Jan Shiksha (Mass Education), Education Department, Government of Bihar, Patna.
4. The District Education Officer, Jamui.
5. The District Programme Officer (Shaksharta), Jamui.
6. The District Programme Officer (Establishment), Jamui.

.... Respondents/Respondents

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Appearance :

For the Appellant : Mr. Abhinav Srivastava, Advocate

For the State : Mr. Priyadarshi Matri Sharan, AC to AAG-15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT & ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 25-09-2018

Feeling aggrieved and dissatisfied with the
impugned judgment and order dated 18.11.2016 passed by



the learned Single Judge in C.W.J.C. No. 5711 of 2015, by which the learned Single Judge dismissed the said petition and has refused to grant the relief of regularization sought by the petitioner, the original writ-petitioner has preferred the present Letters Patent Appeal.

2. We have heard the learned counsel appearing on behalf of the respective parties at length and perused and considered the impugned judgment and order passed by the learned Single Judge.

3. At the outset, it is required to be noted that the original writ-petitioner was working as a daily wager and, as observed by the learned Single Judge, no procedure/recruitment process was followed when he was appointed as a daily wager. Therefore, his appointment was absolutely by way of backdoor entry and not in consonance with the provisions of Articles 14 and 16 of the Constitution of India.

4. Under the circumstances, by giving cogent reasons and relying upon the decision of the Division Bench of this Court in the case of ***The State of Bihar & Ors. Vs. Ram Badan Singh & Ors., reported in 2016 (4) PLJR 596***, in which the Division Bench of this Court after considering the catena of decisions of Hon'ble the Supreme Court on the point including the decision of Hon'ble the Supreme Court in the case of



Secretary, State of Karnataka & Ors. Vs. Uma Devi (3) & Ors., reported in (2006) 4 SCC 1, has refused to grant any relief to the original writ petitioner and dismissed the writ petition.

5. We are in complete agreement with the view taken by the learned Single Judge. As per the catena of the decisions of Hon’ble the Supreme Court of India, continuance as a daily wager for a long period does not confer any right of regularization, more particularly, when the initial appointment is by way of backdoor entry without following the due procedure of recruitment etc.

6. Hence, the present Letters Patent Appeal stands dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
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