IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.413 of 2017
In
Civil Writ Jurisdiction Case No.16830 of 2015

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1. The State Of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Patna.
3. The Secretary (Expenditure), Department of finance, Government of Bihar, Patna.
4. The Additional Secretary, Finance Department, Government of Bihar, Patna.
5. The Chief Engineer, Water Resources Department, Purnea, Government of Bihar, Patna.
6. The Superintending Engineer, Canal Circle, Water Resources Department, Purnea.
7. The Superintending Engineer, Mahananda Flood Control Circle, Katihar.
8. The Executive Engineer, Irrigation Division, Banmankhi, District – Purnea.
9. The Executive Engineer, Flood Control Division, Katihar.
10. The Executive Engineer, Flood Control Division, Kadhagola, District – Katihar.
11. The Executive Engineer, Irrigation Division, Katihar.

... ... Appellant/s

Versus

Awadhesh Kumar Singh and others.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Upendra Pratap Singh, A.C. to S.C.-4
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 06-08-2018 Delay in filing this appeal is condoned.

I.A. No. 1558 of 2017 stands allowed and disposed of.

This letters patient appeal has been filed by the State Government challenging an order dated 09.02.2016 passed in C.W.J.C. No. 16830 of 2015 and other cases.

The writ petition was filed seeking quashing of the notification dated 14.09.2015 issued by the Secretary (Expenditure), Department of Finance, Government of Bihar by which the benefit extended to the petitioners of a particular pay scale vide notification dated 16.07.2015 issued under the signature of Additional Secretary, Department of Finance was withdrawn and steps for recovery was initiated.

The learned Writ Court's detailed order passed indicates that original records were called from the Principal Additional Advocate General and from para-4 onwards the matter has been dealt with in the following manner:-

> "4. The Court had directed the Principal AAG to produce original file when a submission was made on behalf of the State that Annexure-9 was not an order passed by the Government and no proper deliberation and decision-making at a particular level was done in the Department of Finance. The Court wanted to be satisfied on this count and, therefore, went through the files. Since it supports the stand of the Principal AAG, the matter is required to be returned back to the State Government for a fresh consideration of the claim or the representation of the petitioners, which culminated into issuance of Annexure-9.
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> 5. Since the benefit of Annexure-9 has already been derived by the petitioners across the board on the basis of the notification, issued by the functionaries of the State Government, therefore, it will be inequitable to allow them to effect any

recovery of the payment already made to the petitioners or persons similarly placed across the State of Bihar. The Court makes it absolutely clear that there will be no occasion for effecting recovery of the payment already made so far. If any recovery has been effected then they have to be refunded to the petitioners or the persons from whom such recovery has been made. It should be done within a period of one month.

6. A prayer is made on behalf of the petitioners that Annexure-10 should be quashed. The Court is not inclined to quash Annexure-10 as such but it surely declares that Annexure-10 will be inoperative till a final decision is taken and notified by the competent authority of the State Government, which must be done on a fresh application being filed by the association or representatives of the petitioners before the Principal Secretary, Finance, Government of Bihar, who has liberty not only to hear the representatives of the petitioners but also draw inputs from the departments concerned including the Secretary (Expenditure), Department of Finance, Government of Bihar, to come to a considered opinion on the issue."

After having observed so by para-7 of the order the matter has been remanded before the competent authority for taking decision within eight weeks from the date of filing application/representation by the petitioners.

Taking note that the matter has only been remanded to the competent authority, for the reasons indicated hereinabove, we find no case for making indulgence into the matter.

This appeal stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/Uma/-

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