

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.472 of 2017

=====

Bangali, Son of Rajju, Resident of Mohalla- Yarpur, P.S.- Gardanibagh,
Town & District- Patna.

... .. Petitioner

Versus

1. The Patna Municipal Corporation, through its Municipal Commissioner, Maurya Lok, Budh Marg, Patna.
2. The Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Budh Marg, Patna.
3. The Executive Officer, Nutan Rajdhani Circle, Patna Municipal Corporation, Patna.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate
For the State	:	Mr. Indeshwari Prasad, A.C. to G.A.-3
For the P.M.C.	:	Smt. Archana Palkar Khopde, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 19-06-2018

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Patna Municipal Corporation.

2. The petitioner has been working since 07.05.1976, has been contradicted by the Patna Municipal Corporation, as has been claimed to have been appointed in 1996, which cannot be accepted in view of service book (Annexure-1) which has been attached to the writ petition corroborates his claim, inasmuch as, it has been claimed by the petitioner that the persons who were appointed after him having been regularized in the year 1983-84 and leaving the petitioner.



3. The petitioner had earlier approached this Court in C.W.J.C. No.2272 of 2010 and the same was disposed of vide order dated 05.03.2010 and direction was given to dispose of the representations dated 24.12.1997 and 15.09.2002. In turn, the Commissioner, Patna Municipal Corporation vide memo no.3232 dated 08.08.2011 has disposed of the representations, wherein it has been mentioned that there is no fix criteria for regularization of the employee. Vide agenda dated 15.12.2010, it was decided those who have been working prior to 1990 as daily wager after roster clearance steps will be taken for regularization of their services. It has also been mentioned that the regularization of daily wager is a policy matter, will be considered on its approval, before that regularization is not possible.

4. In paragraph no.7 of the counter affidavit, the Patna Municipal Corporation has averred that the Municipal Corporation has decided to regularize the daily wage employees who have been working for last 10 years and for that proposal and reminders have been sent to the Urban Development and Housing Department, but no response has been received from the Department.

5. Whereas, the State has filed its counter affidavit,



wherein it has been mentioned that the Municipality is the statutory body and it can take decision independently with respect to engagement and regularization of its daily wage employees.

6. As the petitioner has been working since 07.05.1976, those who have been appointed later on, having been regularized in service and the roster clearance has already been made.

7. In such view of the matter, this Court directs the Patna Municipal Corporation to regularize the services of the petitioner without unnecessary delay as it is the Municipality to decide about the regularization, juniors to the petitioner has already regularized in service, so the Municipality cannot act arbitrarily and selectively which violates the Article 14 of the Constitution of India.

8. With the aforesaid observations and directions, this writ petition is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	27.06.2018
Transmission Date	N/A.

