

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7860 of 2013

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Hemlata Devi W/O Lakshmi Sah Resident Of Mohalla- Chakluqman, Ward No. 6
Old, 9 New, Nagar Panchayat And P.S- Dalsinghsarai, Distt- Samastipur.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The District Magistrate Cum Collector, Samastipur.
4. Nisha Devi W/O Vijay Sah Resident Of Mohalla- Chakluqman, Ward No. 6 Old,
9 New, Nagar Panchayat And P.S- Dalsinghsarai, Distt- Samastipur.
5. DPO, Samastipur
6. CDPO, Block Dalsinghsarai, Dist. Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akshansh Ankit, Advocate
For the State : Mr. Sudish Kumar, AC to PAAG 2
For the Private Respondent : Mr. Bijay Bhushan Prasad, Advocate
Ms. Vandana Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 01-08-2018

Heard counsel for the petitioner, private respondent and the
respondent State.

2. Counsel for the petitioner has submitted that in view of
the declaration of law in the case of **Sunita Kumari vs. State of
Bihar & Ors** reported in **2010 (3) PLJR 68** cancellation of the
petitioner's selection on the ground that her father was in government
employment as a peon referring to Clause 3 (३) of the guidelines is
unsustainable since the said provision has been struck down in the
judgment in the case of Sunita Kumar (supra). He submits that since
the selection of the petitioner was pending adjudication in the
proceedings before the Collector, the transaction cannot be said to
have been concluded and the petitioner's selection could not have



been set aside.

3. This Court has gone through the order passed in the case of Sunita Kumari (supra). Para 21 reads as follows:

“21. This order is restricted to the petitioner and will be prospective and no party in concluded transactions of appointment to said posts can take the benefit of order.”

4. Clear conclusion of the judgment is that the parties like the petitioner in respect of whom transaction of “appointment” has concluded will not be permitted to take benefit of pronouncement in the case of **Sunita Kuamri** (supra). The submission of the petitioner’s counsel are therefore, not worthy of consideration. Since admittedly the father of the petitioner is serving in government service and petitioner’s selection/appointment is in the year 2007, the pronouncement of this Court in the case of **Sunita Kumari** (supra) cannot come to rescue the petitioner. In view of the specific declaration made in Para 21 of the said judgment.

5. The writ petition is devoid of any merit and dismissed.

(**Madhuresh Prasad, J**)

Prakash/-

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