

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1308 of 2017

In
Civil Writ Jurisdiction Case No.7080 of 2017

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Rakesh Kumar son of late Sharda Nand Lal Nand Bhawan, Gandhi Path,
Mithapur, Patna - 800001.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary Department of Industry, Patna, Bihar.
3. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
4. The Director Handloom and Sericulture, Department of Industry, Bihar, Patna.
5. The Additional Director of Industries (Tech) Department of Industries Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Dayal, Advocate
For the Respondent/s : Mr. Yogendra Prasad Sinha, A.A.G. 7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-10-2018

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge dated 21.07.2017, passed in C.W.J.C. No. 7080 of 2017, by which the learned Single Judge has dismissed the said writ petition, the original writ petitioner has preferred the present Letters Patent Appeal under Clause X of the Letters Patent.

2. That the appellant herein-original writ petitioner approached this Court by way of C.W.J.C. No.7080 of 2017 and



prayed for the following reliefs:

(a) For issuance of writ in the nature of Mandamus or any other appropriate writ for holding that the Petitioner are eligible under new notification vide Memo No. 2957 dated 27.07.2015 for grant of first ACP/MACP as Petitioners have participated the Departmental Account Test and qualified as per clause 10 of the new notification.

(b) For issuance of writ in the nature of Certiorari or any other appropriate writs to quash the (recovery) order vide Memo No. 331 dated 18.02.2016 Annexure-8 under which the respondent No. 4 rejected the first ACP/MACP of the Petitioner without considering the new notification.

2.1 Having noted that earlier the very writ petitioner approached this Court by way of C.W.J.C. No.9495 of 2016 for the very reliefs and the learned Single Judge vide order dated 16.9.2016 dismissed the said writ petition on merits, by the impugned order the learned Single Judge has dismissed the present writ petition - C.W.J.C. No.7080 of 2017, on the ground, that in view of the inter party judgment on the very issue raised and contested before this Court in C.W.J.C. No.9495 of 2016, which binds the petitioner, the remedy for the petitioner would lie elsewhere and not by way of second writ petition and, consequently, the learned Single Judge dismissed the fresh second petition.



3. Feeling aggrieved and dissatisfied with this impugned order passed by the learned Single Judge dismissing the fresh second writ petition, the original writ petitioner has preferred the present Letters Patent Appeal.

4. Having heard learned counsel appearing on behalf of the respective parties and considered the impugned order and the fact that the reliefs which were prayed in the present writ petition were the subject-matter of earlier writ petition being C.W.J.C. No.9495 of 2016 and the same came to be dismissed on merits, as rightly observed by the learned Single Judge, the fresh second petition for the same reliefs shall not be maintainable.

5. We are in complete agreement with the view taken by the learned Single Judge. Even on the doctrine of principle of res judicata and as the order passed in the earlier writ petition was binding to the original writ petitioner, the learned Single Judge has rightly held that fresh second writ petition shall not be maintainable and the same is rightly not entertained by the learned Single Judge. No interference of this Court in exercise of the intra-court appellate jurisdiction is called for.

6. In view of the above and for the reasons stated hereinabove, the present appeal fails and the same deserves to



be dismissed and is accordingly dismissed.

(Mukesh R. Shah, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.10.2018
Transmission Date	N/A

