

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.117 of 2018

In
Civil Writ Jurisdiction Case No. 7658 of 2005

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1. The Union of India through Cabinet Secretary, Rastriyapati Bhawan, New Delhi - 110004.
2. The Cabinet Secretary, Government of India, Rastriyapati Bhawan, New Delhi - 110004. null null
3. The Secretary, Department of Health and Family Welfare, Nirman Bhawan, Government of India, New Delhi. Petitioner/s
- Versus
1. Council for Protection of Public Rights and Welfare through its General Secretary, Sri Mahendra Prasad Gupta, Advocate Son of Late Ram Das Prasad Gupta R/o Mohalla - Ram Krishna Colony, P.S. - Sultanganj, District - Patna, through his son namely Brajesh Kumar, now the General Secretary of Council for Protection of Public Rights and Welfare.
2. The State of Bihar through Chief Secretary, Old Secretariat, Patna.
3. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
4. The Secretary, Department of Health, Government of Bihar, Patna.
5. The District Magistrate, Patna.
6. M/s Nagarjuna Constructions Company Ltd., Site opposite D.A.V. School, Phulwarisharif, Patna.
7. M/s B.L. Kashyap and Sons Ltd. Site Office, AIIMS Patna site opposite D.A.V. School, Phulwarisharif, Patna.
8. M/s Rdb/M/S HIL Site Office, AIIMS Patna Site opposite D.A.V. School, Phulwarisharif, Patna.
9. Bihar State Electricity Board through its Chairman, Patna.
10. Patna Municipal Corporation through Municipal Commissioner, Patna. Respondent/s
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Appearance :

- For the Petitioner (UOI) : Mr. S.D. Sanjay, ASG
Mr. Rajesh Kumar Verma, CGC
- For Respondents : Mr. S.D. Yadav (AAG 9)
Mr. Brahesh Kumar, Adv.
- For Respondent No.9 : Mr. Vinay Kirti Singh, Sr. Adv.
Mr. Vijay Kumar Verma, Adv.
Mr. Akhileshwar Singh, Sr. Adv.
- For the Respondent No. 10 : Mr. Bindhyachal Singh, Adv.
Mr. Manish Prakash, Adv.
Mr. Satya Prakash, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER
(Per: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI)

3 25-07-2018

Heard the parties.

2. Instant writ by way of PIL has been launched



since long in order to have establishment, functioning of AIIMS as per schedule, though, is found frustrated.

3. Be that as it may, the main proceeding is found stayed awaiting disposal of SLP (Civil) 11788, 11789, 11790 of 2013 vide order dated 01.04.2013. During midst thereof, instant petition by way of Civil Review has been filed at the end of the Union of India praying for modification of the 3rd paragraph of order dated 01.08.2012 which was passed on account of prevailing exigency at that very moment, more particularly, considering the All India Institute of Medical Sciences Amendment Ordinance 2012.

4. It has been contended on behalf of learned Additional Solicitor General that at that very moment, no recruitment procedure was properly framed and so, in order to smooth sailing of the Construction Work, Management (Administration), there was need for having the matter controlled by well, able, experience personality and that being so, the Collector, Patna, one of the members of IAS Cadre, was entrusted to discharge the function by way of Deputy Director or Joint Director or Director (Administration) as the case may be, until further orders of the Court without any allowance. Now the Recruitment Rules have been framed and is operative since 2015 identifying the mode of the appointment as well as fixing the eligibility criteria for the relevant posts including that of Deputy



Director or Joint Director or Director (Administration).

5. On account of persistence of aforesaid direction, a hurdle has been perceived which now needs to be removed so that, the appointment be made in accordance with 2015 Rules.

6. Learned counsels representing the respective parties have not raised any kind of objection nor have they challenged/opposed the prayer.

7. After considering the rival submissions as well as after going through the order impugned, it looks prudent to allow Union of India to proceed with the appointment process in accordance with Recruitment Rules of Non Faculty Post for new AIMS, 2015 and will notify the same. Till then, the stop gap arrangement will continue, otherwise having the post vacant will create a chaos, at least in discharging the administrative function. As soon as, eligible candidate is selected for the respective post and is communicated, the stop gap arrangement will automatically cease to survive.

8. In terms thereof, the instant Civil Review is disposed of.

(Aditya Kumar Trivedi, J)

(Rajendra Kumar Mishra, J)

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