

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10670 of 2013

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Bipin Kumar, S/O Late Lal Bahadur Singh, Resident Of Village - Fulwariya,
P.S. Sarai, District - Vaishali

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Water Resources Dept, Govt Of Bihar, Patna
3. The Director, Land Acquisition And Rehabilitation, Water Resources Dept,
(Sinchai Bhawan), Patna
4. The Special Land Acquisition Officer, Gandak Project, Muzaffarpur

... .. Respondent/s

WITH
Civil Writ Jurisdiction Case No 10971 of 2013

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Pramod Narayan Singh, S/O Late Satrugan Singh, Resident Of Village
Bangab, P.S. Bajpatti, District Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Water Resources Dept, Govt Of Bihar, Patna
3. The Director, Land Acquisition And Rehabilitation, Water Resources Dept
(Sinchai Bhawan), Patna
4. The Special Land Acquisition Officer, Gandak Project, Muzaffarpur

... .. Respondent/s

WITH
Civil Writ Jurisdiction Case No 11169 of 2013

=====

Lakshman Sahni, S/O Sri Yugeshwar Sahni, Resident Of Village Jayantipur,
P.S. Bahera, District Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Water Resources Dept, Govt Of Bihar, Patna
3. The Director, Land Acquisition And Rehabilitation, Water Resources Dept,
(Sinchai Bhawan), Patna
4. The Special Land Acquisition Officer, Gandak Project, Muzaffarpur

... .. Respondent/s

WITH
Civil Writ Jurisdiction Case No 11181 of 2013



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Sanjay Kumar, S/O Late Nagendra Prasad Singh, Resident Of Village-
Harpur, P.S- Bakhari Supamand, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Water Resources Dept, Govt Of Bihar, Patna.
3. The Director, Land Acquisition And Rehabilitation, Water Resources Dept,
(Sinchai Bhawan), Patna.
4. The Special Land Acquisition Officer, Gandak Project, Muzaffarpur.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No 10670 of 2013)

For the Petitioner/s : Mr Niraj Kumar, Advocate

For the Respondent/s : Mr Mritunjay Kumar, AC to AAG VI

(In Civil Writ Jurisdiction Case No 10971 of 2013)

For the Petitioner/s : Mr Niraj Kumar, Advocate

For the Respondent/s : Mr Birju Prasad, GP XIII

(In Civil Writ Jurisdiction Case No 11169 of 2013)

For the Petitioner/s : Mr Niraj Kumar, Advocate

For the Respondent/s : Mr Mritunjay Kumar, AC to AAG VI

(In Civil Writ Jurisdiction Case No. 11181 of 2013)

For the Petitioner/s : Mr Niraj Kumar

For the Respondent/s : Mr Shankar Kumar, AC to AAG VII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 19-11-2019

Heard learned counsel for the petitioners and the
respondent-State.

2 The undisputed facts in the instant cases is that all the
petitioners were appointed as Chain men on ad hoc basis under
order of the Special Land Acquisition Officer. The Authorities,
after many years, discovered that the appointment was not in
accordance with law and discontinued the ad hoc services of the



petitioners in all the writ petitions. The petitioners have, thereafter, approached this Court in CWJC No 15066 of 2010. In the said writ petition, instead of pressing their claim before this Court, the petitioners submitted that the Court should pass a direction for disposing of the representation made against the order terminating their ad hoc services. It is, thereafter, that the matter has been considered afresh by the Authorities after opportunity to the petitioners to file their representations in support of their claim. The appointment of the petitioners in all the cases was, admittedly, done in the year, 1989. That is not a fact in dispute in the instant proceedings. The Authorities, while examining the representation of the petitioners, has taken note of the fact that under Departmental Communication dated 02.12.1983 bearing No 7836, the powers of the Special Land Acquisition Officer to make appointments had been withdrawn. The irresistible conclusion is that the appointment of the petitioners made on 20.06.1989 was, therefore, not by the competent Authority as it is their claim that they were appointed by the Special Land Acquisition Officer. On discovering this fact, Authorities have also lodged criminal prosecution bearing Vigilance Police Station Case No 4 of 1997 in respect of appointment of the petitioners. The Authorities have also considered the fact that there was no Advertisement in the



newspaper nor names were called for from the Employment Exchange. The appointment in question was also done without identifying the roster position and on all these counts, the selection has been held to be illegal.

3 Learned counsels for the petitioners submits that from bare perusal of the appointment letter issued by the Special Land Acquisition Officer, it is apparent that the same was under orders of the Director, Land Acquisition and Rehabilitation Water Resources Department, Bihar, Patna. The said fact is mentioned in the order of appointment but from bare perusal, it is apparent that the same is without any reference letter number or memo under which such direction is said to have been issued by the Director, Land Acquisition Officer and Rehabilitation Water Resources Department, Bihar, Patna. It prima facie does not support the contention of the petitioner that there was any specific order issued at the Directorate Level for the petitioners' appointment. The petitioners' counsel has also referred to a judgment of the Division Bench in LPA No 1665 of 2010 to submit that as the petitioners have continued for more than 10 years, they ought to have been regularized instead of being terminated. On going through the judgment, it is apparent that the appellant of that case had been appointed by the competent authority. In the instant case, there is



specific finding that the Special Land Acquisition Officer was not competent in view of his powers being withdrawn under Communication dated 02.12.1983 which has been taken note of hereinabove. The other infirmities regarding their being no Advertisement, no roster point and no requisition of names from the Employment Exchange also invalidates the appointment of the petitioners. The matter is also now subjudice in a vigilance case which is looking into the illegality/irregularity of the appointments. The reasoned order dated 28.02.2011 issued by the Director, Land Acquisition and Rehabilitation, for the reasons indicated hereinabove, does not require any interference.

4 Writ petitions are, therefore, dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.11.2019
Transmission Date	NA

