

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14619 of 2008

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Sheo Kumar, son of late Indradeo Mahato, Resident of Village Shadipur, P.O. Sondhi, P.S. Buniyadganj, Dist. Gaya. At present posted as Tax Collector (Safai Jamadar) inlodging House Committee, Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Magadh Division, Gaya-cum-Convenor, Lodging House Committee, Gaya.
3. The Lodging House Committee, Gaya through its Chairman, the D.M. Gaya.
4. The District Magistrate, Gaya – cum – Chairman, Lodging House Committee, Gaya, Dist. Gaya.
5. The Secretary, Lodging House Committee, Gaya, Dist. Gaya.
6. Sri Sheo Ranjan Prasad, Son of Sri Awadh Kishor Prasad, Resident of Mohalla P.O. Chandchaura, P.S. Civil Line, Dist. Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Raghwendra Sharan Pandey, Adv. Mr. Sharan Pandey, Adv.
For the Resp. No.6	:	Mr. Arun Kr. Sinha, Adv.
For the State	:	Mr. Dilip Kr. Pandey, AC to GA2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 05-03-2019

Heard learned counsel for the parties.

In the present case, the petitioner is claiming that he should have been promoted to the Class-3 post in place of Sheo Ranjan Prasad, respondent no.6, stating that he was appointed in the year 2000 substantively on Class-4 post though he was working on daily wages employees but, on the direction of this Court in C.W.J.C. No. 2490 of 1998 disposed of on 16.9.1999, the respondent no.6 was substantively appointed on the said post whereas as per learned counsel for the petitioner, he was appointed



substantively on Class-4 post in the year 1999 and the Lodging House Committee, Gaya, in its meeting dated 20.6.2008 decided to promote Sri Sheo Ranjan Prasad, respondent no.6, as Class-3 employee which is apparently clear from Annexure-1 but, the claim of the petitioner was not considered though he is senior to the respondent no.6 but, further submitted that he has better right than the respondent no.6 for grant of promotion whereas learned counsel for the State as well as counsel for the respondent no.6 submits that this writ petition itself is not maintainable as the Lodging House Committee is not a State within the meaning of Article 12 of the Constitution of India. For that, he has place reliance on the order passed by this Court in C.W.J.C. No. 2504 of 2000 disposed of on 25.2.2006 wherein the Court has held that the Lodging House Committee is not a statutory body nor a State under Article 12 of the Constitution of India and, consequently, the writ petition is not maintainable. In reply, learned counsel for the petitioner has placed reliance on the order passed by this Court in C.W.J.C. No. 8620 of 2004 disposed of on 3.7.2007, in that case, the the Court has held that the writ application is maintainable but, the order passed in C.W.J.C. No. 2504 of 2000 has not been. The objection has been overruled by this Court vide order dated 25.6.2018 on the basis of the order passed in C.W.J.C. No. 8620 of



2004 but, the order passed in C.W.J.C No. 2504 of 2000 was not brought to the notice of this Court and, on that ground, the objection raised by the other side has been over-ruled.

However, this Court at present is not deciding this issue. It is left open to be decided in appropriate case as to whether the writ is maintainable against the Lodging House Committee as there is two conflicting views, cannot be reconciled about the status of the Lodging House Committee. The status of a Committee would be decided on the basis of its function and attributes, resource of finance from where they are getting and other guiding factors will be yardstick for its decision as to whether a body is a State within the meaning of Article 12 of the Constitution of India.

However, at present, the petitioner was appointed in the year 1999 whereas the respondent no.6 was appointed in the year 2000. Certainly, the petitioner has been appointed earlier and when a case of promotion was under consideration, eligible persons of that class was to be considered, firstly the case of senior was to be taken into consideration for grant of promotion to the next higher grade which has not been done in the present case.

The matter is of the year 2008 and his representation has not been decided till date. In that view of the matter, let the



petitioner should file a fresh representation before the authority concerned giving details of fact in his support and the Lodging House Committee will take a decision in accordance with the seniority and suitability of a person in the higher post of Class III within a period of four months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.03.2019
Transmission Date	

