

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.871 of 2015

In

Civil Writ Jurisdiction Case No.3896 of 2015

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1. Saroj Kumari, W/o Nilesh Kumar Prasad, At - Bhopatpur, P.O.- Jogapur, P.S.- Jamo Bazar, District - Siwan.
 2. Mira Kumari, W/o Kailash Singh, At - Phalpura, P.O.- Nainpura, P.S.- G.B. Nagar Tarwara, District - Siwan.
 3. Bibha Kumari, W/o Sanjay Singh, At - Chandpur, P.O.- Hariharpur Lalgah, P.S.- Jamo Bazar, District - Siwan.
 4. Ranku Kumari, W/o Vinay Pandit, At - Tarwara Kurmi Tola, P.O.- Tarwara, P.S.- G.B. Nagar Tarwara, District - Siwan.
 5. Pramila Kumari, W/o Sudha Gupta, At - Sanibasantpur, P.O.- Sanibasantpur, P.S.- G.B. Nagar Tarwara, District - Siwan.
 6. Kushum Kumari, W/o Krishna Prasad, At - Baliya, P.O.- Baliya, P.S.- Maharajganj, District - Siwan.
 7. Babita Sinha, W/o Prabhu Dayal, At - Ramnagar, P.O.- Amlori, P.S.- Siwan M, District - Siwan.
 8. Anuradha Kumari, W/o Jagdish Ram, At - Bhikhpur, P.O.- Chainpur, P.S.- Siswan, District - Siwan.
 9. Shanti Singh, W/o Rajendra Prasad, At + P.O.- Tarwara, P.S.- G.B. Nagar Tarwara, District - Siwan.
 10. Punam Kumari, W/o Ashok Kumar, At - Sikandarpur, P.O.- Sikandarpur, P.S.- G.B. Nagar Tarwara, District - Siwan.
 11. Sarowar Kumari, W/o Ranveer Mahto, At - Bhawanipur, P.O.- Dighari, P.S.- Surya Garha, District - Lakhisarai.
 12. Kalinda, W/o Abhishek Kumar Abhishek, At - Balibhadra Patti, P.O.- Mirganj, P.S.- Uchkagaon, District - Gopalganj.
 13. Rita Kumari, W/o Rameshwar Prasad, At - Balibhadra Patti, P.O.- Mirganj, P.S.- Uchkagaon, District - Gopalganj.
 14. Kiran Kumari, D/o Jagnath Prasad Yadav, At - Chouki Hasan, P.O.- Chouki Hasan, P.S.- G.B. Nagar Tarwara, District - Siwan.
 15. Rinku Kumari, D/o Harendra Singh, At + P.O.- Bhriгу Balia, P.S.- Maharajganj, District - Siwan.



16. Sharda Kumari, W/o Rama Shanker Prasad, At - Surwalia, P.O.- Barhan Gopal, P.S.- Barharia, District - Siwan.
17. Bandana, W/o Brij Kishor Singh, At + P.O.- Sahlour, P.S.- Pachrukhi, District - Siwan.
18. Pinki Kumari, D/o Swami Nath Singh, At + P.O.- Bhriugu Balia, P.S.- Maharajganj, District - Siwan.
19. Anita Kumari, W/o Pinku Kumar, At - Udaini, P.O.- Mitanchak, P.S.- Gopalpur, District - Patna.
20. Asha Kumari, W/o Umesh Kumar Yadav, At - Tarila, P.O.- Telkathu, P.S. District - Siwan.
21. Bhagmani Kumari, W/o Anup Kumar Chourasia, At + P.O. + P.S.- Raghunathpur, District – Siwan.
22. Sunita Kumari, W/o Satendra Kumar, AT + P.O.- Basbigaha, P.S.- Dhanarua, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Secretary, Health-Cum-Executive Director, State Health Committee, Bihar, Patna.
4. The District Magistrate, Siwan.
5. The Civil Surgeon-Cum-Member Secretary, District Health Committee, Siwan.
6. The Incharge, Health Officer, Rogi Kalyan Committee, Goriyakothi, Siwan.
7. The Incharge, Health Officer, Rogi Kalyan Committee, Hasanpura, Siwan.
8. The Incharge, Health Officer, Rogi Kalyan Committee, Barharia, Siwan.
9. The Incharge, Health Officer, Rogi Kalyan Committee, Raghunathpur, Siwan.
10. The Incharge, Health Officer, Rogi Kalyan Committee, Siswan, Siwan.

... .. Respondent/s

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with



Letters Patent Appeal No. 478 of 2016
In
Civil Writ Jurisdiction Case No.2433 of 2015

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Anshuya Kumari, D/o Shri Shatrughan Singh, W/o Shri Pushpendra Kumar Singh, at present resident of Village + P.O.- Bhirgu Balia, Police Station- Maharajganj, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Director-in-Chief, Health Services, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The District Magistrate-cum-Chairman, District Health Society, Siwan.
5. The Civil Surgeon-cum-Chief Medical Officer, Siwan.
6. The Civil Surgeon-cum-Member Secretary, District Health Society, Siwan.
7. The District Programme Manager, District Health Society, Siwan.
8. The Incharge Medical Officer, Primary Health Centre Ander, District Siwan.

... .. Respondent/s

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Appearance :

(In both the Appeals)

For the Appellant/s	:	Mr. Mahesh Narayan Parbat, Sr. Adv. Mr. Umesh Kumar Mishra, Adv. Mr. Ved Prakash Srivastava, Adv. Mr. Rajeev Kumar Singh, Adv.
For the Respondent/s	:	Mr. Anil Kumar Singh, G.P.-26 Ms. Archana Meenakshee, G.P.-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 04-04-2019

Heard the learned counsel for the petitioners and the State.

2. The two appeals, bearing L.P.A. No. 871 of 2015 and L.P.A. No. 478 of 2016, arises from the judgments and orders passed in C.W.J.C. No. 3896 of 2015 and C.W.J.C. No. 2433 of 2015 respectively, whereby the writ petitions were dismissed while rejecting the plea of the petitioners questioning the termination order which was passed on grounds that it rested on a forged registration certificate.

3. We have heard Mr. Mahesh Narayan Parbat, learned Senior Advocate, and Mr. Umesh Kumar Mishra, learned Advocate, appearing for the appellants. We have also heard learned counsel for the State and perused the records of the writ proceedings including the order of termination.

4. For the sake of ready reference, we would be referring to the pleadings in C.W.J.C. No. 3896 of 2015 for the reason that the order of termination and the reasons are common in the two writ petitions.



5. Annexure- 1 to the writ petition is an order bearing Memo No. 7, dated 05.01.2015, whereby the District Magistrate-cum-Chairman, District Health Society has terminated the services of number of Auxiliary Nurse Midwifery (hereinafter referred to as the ANM) on grounds that the certificate supporting their qualification was found to be forged. The list contains the name of 68 such ANMs including the name of these appellants as well.

6. We also note from the proceedings that the issue was referred to the Nurses Registration Council, whose opinion has been placed on record *vide* Annexure-C to the counter affidavit filed in L.P.A. No. 871 of 2015 and reports of forgery in so far as the registration certificate is concerned. The report of the Registrar, Bihar Nurses Registration Council, bears Memo No. 1166, dated 26.11.2014.

7. In such view of the matter, we are certainly not persuaded by the arguments advanced by Mr. Parbat, learned Senior Advocate, and Mr. Mishra, learned Advocate, to interfere with the order passed by the learned Single Judge, dismissing the writ petition for any appointment resting on a



forged certificate is void *ab initio* and had to be terminated in the manner done in the present case and to such extent there is no illegality in the order of termination.

8. Having opined thus, our attention is invited to the consequential direction present in the order of termination dated 05.01.2015, passed by the District Magistrate, Siwan wherein the entire salary paid to these appellants/writ-petitioners for their services as ANMs. is sought to be recovered.

9. It is not in dispute that these ANMs. have discharged their duties and for which the payments have been made. In our opinion even if the appointment was founded on a registration certificate, which was later found to be forged, it would entail a termination but certainly would not entitle the respondent authorities in the District Health Society including its Chairman-District Magistrate to order for a recovery of the salary paid since it is a payment made to these ANMs. for the discharge of duties.

10. To such extent, we are persuaded with the arguments of the learned counsel for the appellants to quash



the part of the order in so far as it directs for recovery of the salary paid to the ANMs. including the appellants herein, which is, accordingly, quashed and set aside.

Both the appeals are allowed to the extent above. The order of the learned Single Judge impugned herein stands modified to such extent.

(Jyoti Saran, J)

(Ashutosh Kumar, J)

skm/praveen

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.04.2019
Transmission Date	N/A

