

Letters Patent Appeal No.774 of 2019

Civil Writ Jurisdiction Case No.779 of 2018

... .. Appellant/s

Kumar Gaurav Singh

with

In

The Bihar Staff Selection Commission

... .. Appellant/s

Navnit Kumar

... Respondent/s

(In Letters Patent Appeal No. 774 of 2019)

For the Appellant/s : Mr. Satyabir Bharti

For the Respondent/s : Mr. Niranjana Kumar

(In Letters Patent Appeal No. 775 of 2019)

For the Appellant/s : Mr.Satyabir Bharti

For the Respondent/s : Mr. Niranjana Kumar.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

4 06-11-2019

Heard Mr. Lalit Kishore, learned Sr. Counsel for the

appellant and Mr. P.K. Shahi, learned Sr. Counsel for respondent

Nos. 1 to 15.

Re:- I.A. No. 1 of 2019



The above mentioned Interlocutory Application has been preferred for condonation of delay of 121 days in filing the present L.P.As.

On the ground mentioned in the Interlocutory Application, showing sufficient cause for not filing the present L.P.As. within stipulated time, delay of 121 days in filing the present appeal is condoned.

Accordingly, I.A. No. 01 of 2019 is disposed of.

Re.:- L.P.A. No. 774/775 of 2019

The present two LPAs are directed against the judgment and order dated 05.02.2019 in C.W.J.C. NO. 1114/779 of 2018, whereby the learned Single Judge has directed the appellants, i.e., the Bihar Staff Selection Commission, to send the recommendation of 93 (ninety three) candidates for their district wise allotment and appointment on the vacant post of Agriculture Co-ordinator. The operative part of the order as is indicated in paragraph nos. 1, 2 and are as follows:

“By way of third supplementary affidavit the learned counsel for the petitioners has brought on record a letter written by the Director Agriculture Department, Govt of Bihar, Patna addressed to the Secretary, Bihar Staff Selection Commission, Patna asking for recommendation of ninety three (93) candidates for their district wise allotment and consequent appointment on the vacant posts.



With the aforesaid letter of the Director, Agriculture Department, Govt. of Bihar, Patna, the grievances of the petitioners appear to have been redressed.

This Court, under the aforesaid circumstances, can only direct that the recommendation be made at the earliest, pursuant to which the appointment may be made against the vacant posts, without any unnecessary delay, preferably within a period of three months from the date of receipt/production of copy of this order.”

Learned counsel for the appellant has filed I.A. NO. 03 of 2019, whereby he has placed on record, as Annexure-1, a letter dated 26.08.2019, which has been issued by the Agriculture Director, Bihar, Patna addressed to the Secretary, Bihar Staff Selection Commission, Patna, whereby it has been informed that Letter No. 5223 dated 17.04.2018, by virtue of which the recommendation of ninety three (93) candidates for their district wise allotment and their consequent appointment on the vacant posts, was made, has been withdrawn vide Letter dated 09.08.2019, which has been issued by the Additional Secretary General Administration Department, and has been addressed to the Secretary, Agriculture Department, Bihar, Patna. The said Letter dated 09.08.2019 bears the fact and indicates that the Letter dated 17.04.2018 which was the basis of passing of the order dated 05.02.2019, was forwarded to the



learned Advocate General for his opinion, who has given his opinion in the following words:-

“The issue is now no longer res integra as the Hon’ble Supreme Court has clearly laid down the procedure required to be adopted in cases of appointments in service against vacancies arising due to MRC migration to reserved quota. A five Judges Bench in the case of Union of India Vs. Ramesh Ram & Ors reported in (2010) 7 SCC 234 has clearly held at para 72 that the seats vacated by MRC candidates in General Pool will be offered to General Category candidates. Summing up the detail discussions made at para- 36, 39, 42, 44, 56 and 72(i) the following proposition of law has been settled.

.....Hence, the vacancies arising in General Category due to migration of MRC to reserved category for getting better options, the same is required to be filled by following the procedure as prescribed by the Hon’ble Apex Court in the aforesaid judgment given by five Judges bench in the case of Union of India Vs. Ramesh Ram.”

As such it has been contended by the learned counsel for the appellant that the very basis, i.e., letter dated 17.04.2018, on which the order dated 05.02.2019 was passed by the learned Single Judge in C.W.J.C. Nos. 1114/779 of 2018, is now in-existent since the same now stands withdrawn vide letter no. 11125 dated 09.08.2019, issued by the General Administration



Department. The learned counsel for the appellant in the aforesaid facts and circumstances, seeks permission to withdraw the present L.P.As. to prefer an application before the learned Single Judge, for reviewing the order dated 05.02.2019

Permission is accorded.

Accordingly, the present L.P.As. are permitted to be withdrawn with liberty above mentioned.

(Dinesh Kumar Singh, J)

(Anjani Kumar Sharan, J)

Amrendra/-

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