

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1006 of 2019**

**In**  
**Civil Writ Jurisdiction Case No.15786 of 2019**

- 
1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
  2. The Chief Secretary, Government of Bihar, Patna.
  3. The Under Secretary, Education Department, Government of Bihar, Patna.
  4. The Principal Secretary, Education Department, Government of Bihar, Patna.
  5. The Additional Commissioner-Cum Secretary, Department of Education, Government of Bihar, Patna.
  6. The Chief Executive Officer cum Managing Director, Bihar State Educational Finance Corporation Limited, Patna.
  7. The Director, Bihar Development Mission, Government of Bihar, Patna.

... Respondents- Appellant/s

Versus

1. Kundan Kumar Son of Nirsu Paswan, Resident of Ward No.9, Kataiya, P.S.- Purnahiya, District- Sheohar.
2. Kundan Kumar Son of Binod Sahni, Resident of Village- Kolhua, P.S.- Ahiyapur, District- Muzaffarpur.
3. Santosh Kumar Son of Tribhuvan Pandit, Resident of Village- Sadatpur, P.S.- Kanti, District- Muzaffarpur.
4. Rajesh Kumar Son of Chanar Yadav, Resident of Belhi, P.S.- Laukahi, District- Madhubani.
5. Niraj Kumar Son of Ramanand Prasad, Resident of Village- Ratuali, P.S.- Ratauli, District- Siwan.
6. Nikesh Kumar Son of Dhatu Das, Resident of Ward No.5, Keota, P.S.- Dalsingsarai, District- Samastipur.
7. Bali Kumar Son of Tokdar Sahni, Resident of Village- Baruraj, P.S.- Bakhri, District- Muzaffarpur.
8. Murtaza Alam Son of Ahmad, Ansari Resident of Village- Tilbihta, P.S.- Saraiya, District- Muzaffarpur.
9. Kaushal Kumar Son of Kameshwar Sharma, Resident of Village- Rajapur, Manpura, P.S.- Patliputra, District- Patna.
10. Rohit Kumar Gupta Son of Ashok Gupta, Resident of Rajapur Manpura, P.S.- Patliutra, District- Patna.
11. Amar Raj Son of Mukesh Goswami, Resident of Ramdhanipur, Kanhauli, P.S.- Gopalpur, District- Patna.
12. Bittu Kumar Son of Brij Mohan Paswan, Resident of Village- Nayachak, Manohar Kachuara, P.S.- Gopalpur, District- Patna.
13. Aditya Kumar Son of Raj Kishore Singh, Resident of Khajuri Masrakh, P.S.- Masrakh District- Saran at Chapra.



14. Abhishek Kumar Son of Devendra Prasad, Resident of East Lohanipur, Saraswati Lane, P.S.- Kadamkuan, District- Patna.
15. Purushottam Kumar Son of Abhay Shankar Mishra, Resident of Ward No.11, Bachopatti Narha, P.S.- Bajpatti, District- Sitamarhi.
16. Amish Kumar Son of Manoj Singh, Resident of Village- Khajuri, P.S.- Masrakh, District- Saran at Chapra.
17. Rohit Raj Son of Rajesh Kumar, Resident of Village- Bakarganj, Thakurbari Road, P.S.- Bankipur, District- Patna.
18. Awnish Kumar Son of Harishankar, Resident of Village- Kumjwa, P.S.- Bihta, District- Patna.
19. Deepu Sharma Son of Late Dinesh Sharma, Resident of Village- Bariyarchak, P.S.- Nayagaon, District- Saran at Chapra.
20. Subodh Kumar Paswan @ Subodh Kumar Son of Devendra Paswan, Resident of Ward No. 9, Kataiya, P.S.- Purnahiya, District- Sheohar.
21. Amrendra Kumar Son of Ram Darshan Saw, Resident of Village- Kujawan, P.S.- Bihta, District- Patna.
22. Ritesh Kumar Son of Pramod Chaudhary, Resident of Village- Kharidpur, P.S.- Sakra, District- Muzaffarpur.
23. Veer Bahadur Ray Son of Babu Ram Ray, Resident of Village- Bariyarchak, P.S.- Nayagaon, District- Saran at Chapra.
24. Amit Kumar Son of Ganeshwar Singh, Resident of Ward No.9, Mukundpur, P.S.- Samastipur, District- Samastipur.
25. Mukhtar Mansuri Son of Salim Masuri, Resident of Ward No.11, Thariya Batiya, P.S.- Simraha, Distt- Arariya.
26. Md. Ansar Son of Md. Majahid, Resident of Ward No.12, Thariya Bokra, P.S.- Simraha, Distt- Arariya.
27. Quamar Raja Son of Nurul Hoda, Resident of Ward No.11, Bardaha, P.S.- Bardaha, District- Arariya.
28. Mithun Kumar Son of Banarsi Das, Resident of Village- Danhi, P.S.- Garhpura, District- Begusarai.

... .. Petitioners- Respondent/s

**Appearance :**

For the Appellant/s : Mr. Lalit Kishore, Advocate General  
Mr. Ashutosh Ranjan Pandey, AAAG-15  
Mr. Shashi Shekhar Tiwary (AC TO AAG 15)

For the Respondent/s : Mr. Jyoti Ranjan Jha, Advocate

**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**



**(Per: HONOURABLE THE CHIEF JUSTICE)**

4      23-10-2019                      Heard the learned Advocate General for the State of Bihar and Shri Jyoti Ranjan Jha, learned counsel who has appeared on behalf of the respondents 1 to 28.

After having heard the learned counsel for the parties, we had passed the following interim order on 20<sup>th</sup> September, 2019:-

Heard the learned Advocate General for the State and Shri Dhananjay Kumar Singh for the private respondents.

This appeal questions an interim order dated 05.08.2019 passed in C.W.J.C. No.15733 of 2019 and other connected writ petitions, whereby the learned Single Judge has stayed the operation of the order dated 5<sup>th</sup> July, 2019 and 16<sup>th</sup> July, 2019.

The respondent-petitioners have not received any part of the loan and they claim that since they have taken admission prior to the passing of the orders, therefore, they are entitled to the benefits that were being extended prior to passing of the impugned orders.

The impugned orders have limited the extension of benefits to only those applicants who had already received part of the loan amount and it was made applicable in future by placing certain restrictions.

In the background of the case, we find that the resolution passed by the Government is in order to prevent any fake extension of loans. In the said



background, it would have been appropriate that the entire writ petition could have been heard finally and no interim relief should have been granted at the inception itself, inasmuch as, the same amounts to granting final relief at the admission stage. Even otherwise *prima facie* we find that the stay of the orders would not enure any benefit to the respondent petitioners as they would get nothing, rather those who would still be entitled would be deprived of their legitimate claim with no corresponding loss or benefit to the petitioners at this interim stage.

We are constrained to entertain this appeal as the learned counsel for the respondents prays that he may be granted time to file counter affidavit. Three weeks' time is granted to file a counter affidavit, one week for rejoinder.

List thereafter on 21.10.2019.

Until further orders of the Court, operation of the order dated 5<sup>th</sup> August, 2019 shall not be given effect to.

It shall, however, be open to the parties to pray before the learned Single Judge for final disposal of the matter, notwithstanding the passing of this order and the pendency of this appeal.”

The matter appears to have been listed before the learned Single Judge where the following order was passed on 30<sup>th</sup> September, 2019:-

“In view of the order passed by the L.P.A. Court in L.P.A. No.1006 of 2019, put all these case



after disposal of the same.

The interim order was granted by this Court in a situation where the State was not inclined to argue the case on merit.”

Learned counsel for the respondents submits that the matter may be remitted finally to the learned Single Judge to decide the matter afresh.

In the wake of the aforesaid submissions and we having already recorded our *prima facie* opinion in the order dated 20<sup>th</sup> September, 2019, confirm and make the same absolute and allow the appeal and set aside the interim order dated 5<sup>th</sup> August, 2019.

The parties may now appear before the learned Single Judge for disposal.

**(Amreshwar Pratap Sahi, CJ)**

**(Ashutosh Kumar, J)**

Sunil/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

