

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1367 of 2018

In
Civil Writ Jurisdiction Case No.2427 of 2016

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1. The State Of Bihar, through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
 2. The Under Secretary, Water Resources Department, Government of Bihar, Patna.
 3. The District Magistrate Purnea, District- Purnea.
 4. The Engineer-in-Chief Water Resources Department, Government of Bihar, Patna.
 5. The Chief Engineer Water Resources Department, Government of Bihar, Purnea.
 6. The Superintending Engineer Water Nissaram Circle, Water Resources Department, Purnea.
 7. The Superintending Engineer, Mahananda Flood Control Circle, Katihar.
 8. Executive Engineer, Flood Control Division, Kadhagola, Katihar.
 9. Executive Engineer, Water Drainage Division, Purnea.

... .. Appellant/s

Versus

1. Gopal Prasad Gupta, Son of Sri Surendra Prasad Gupta, Resident of Mohalla - Ram Nagar Balmi, Phulwari Sharif, Near Govindpur, Police Station - Phulwari Sharif, District - Patna.
2. Nawal Kishore Gautam, Son of Late Raj Nandan Singh, Resident of village and Post Office - Newari, Police Station - Makhdumpur, District - Jehanabad.
3. Dasrath Prasad Sah, Son of Ram Ratan Sah, Resident of Village and Post Office Nagma, Police Station Karpi, District Arwal.
4. Anil Kumar Singh, Son of Late Dharmu Prasad Singh, Resident of Village Hariharpur, Post Office Dighari, Police Station Kodha, District- Katihar.
5. Ram Narayan Rai, Son of Jiwachh Rai, Resident of Village and Post Office Kadamaha, Via Nirmali, Police Station, Arauna, District- Supaul.
6. Rajeshwar Raut, Son of Sri Sundar Mehtar, Resident of Mahananda Sibir, Janta Chowk, Purnea, Police Station Purnea, District- Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Anjani Kumar, AAG 4
For the Respondent/s	:	Mr. V.R.P. Singh, Adv. Mr. Arvind Kumar, Adv.



**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 20-09-2019

I.A. No.7385 of 2018

Having heard Shri Anjani Kumar, learned A.A.G.,
we are satisfied that the delay has been sufficiently explained.
The delay condonation application is allowed. The appeal shall
be treated to be within time.

L.P.A. No.1367 of 2018

The appeal questions the correctness of the
impugned judgement dated 12th of April, 2018 on the ground
that the directions issued for regularization of the respondent-
petitioners is not in consonance with the law laid down by the
Apex Court in the case of **Secretary, State of Karnataka &
Ors. v. Umadevi & Ors.**, reported in **(2006) 4 SCC 1**. The main
contention is that in the absence of any vacancy or any such
regular post available, such a direction for regularization being
not in conformity with the law aforesaid, the learned Single
Judge has committed an error in proceeding to issue a
mandamus as prayed for.

We have heard learned counsel for the appellants as



well as the learned counsel for the respondent-petitioners and from the undeniable facts which have emerged from the pleadings, it is more than evident that the respondent-petitioners have continued in their capacity as daily wagers and have also been extended the benefit of minimum pay-scale for almost three decades. This period of continuity of the respondent-petitioners is more than sufficient for us to deny any interference with the directions given by the learned Single Judge which has rightly relied upon the decisions referred to therein and has issued the mandamus as prayed for.

Accordingly, this is not a fit case where any interference is called for.

The appeal stands dismissed.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.09.2019
Transmission Date	N/A

