

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7077 of 2020

Lalit Mohan Pathak, Son of Ram Jhalak Pathak, resident of Village Kaithwali, P.S. Narahi, District Balia (Uttar Pradesh), at present Flat No. 20/B Sita Kunj Apartment, Ved Nagar, P.S. Rasalpur, District- Patna, Retired Junior Electrical Engineer, Electric Supply Section, Nawhatta under Electric Division, Dehri - on - Sone, P.S. Dehri, District Rohtas.

... .. Petitioner/s

Versus

1. The Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S. Kotwali, District Patna, through it's Chairman cum Managing Director.
2. The Chairman cum Managing Director, Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S. Kotwali, District Patna.
3. The South Bihar Power Distribution Co. Ltd., Vidyut Bhawan, Bailey Road, P.S. Kotwali, District Patna through it's Managing Director.
4. The Bihar State Power (Holding) Co. Ltd. cum Chairman, DPC, Vidyut Bhawan, Bailey Road, Patna, P.S. Kotwali, District- Patna.
5. The General Manager (HR Adm), Bihar State Power (Holding) Co. Ltd. Vidyut Bhawan, Bailey Road, P.S. Kotwali, District- Patna.
6. The Deputy General Manager (HR Adm), Bihar State Power (Holding) Co. Ltd. Vidyut Bhawan, Bailey Road, P.S. Kotwali, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Devendra Prasad Singh, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Vijay Kumar Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 28-01-2021 Heard learned counsel for the petitioner and the respondents.

The instant writ application involves the issue to grant promotion to the petitioner.

Learned counsel for the petitioner submits that it is true that Vigilance case is pending against the petitioner, but the respondents have granted promotion to other similarly circumstanced persons notwithstanding the pendency of the



Vigilance case and, as such, the petitioner should also be granted the benefit of promotion.

Mr. Vinay Kirti Singh, learned counsel for the respondents submits that no person junior to the petitioner has been granted promotion and in the matter of cadre promotion the petitioner cannot claim right to promotion. This aspect of the matter shall be considered only after the petitioner is cleared by the competent Court in Vigilance case.

The law is well settled that the Court cannot issue direction for perpetuating illegality. At the relevant time, the petitioner was not a free man and he was under cloud, as Vigilance case was pending against the petitioner and pendency of the Vigilance case is a bar in the matter of grant of promotion.

Since others have been granted promotion illegally and granting promotion to others cannot be a ground to perpetuate illegality. However, in the event the petitioner is exonerated by the competent Court in Vigilance case, the petitioner may be at liberty to raise the issue for grant of promotion and the consequential benefit on promotion only after clearance from the Vigilance case and if any person junior to the petitioner has been granted promotion.

In the event, the petitioner is exonerated by the



Vigilance, the respondents will consider the case of the petitioner for grant of notional promotion in accordance with law and grant all consequential benefits.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

uday/-

U			
---	--	--	--

