

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.391 of 2011

In

Civil Writ Jurisdiction Case No.16729 of 2009

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SANJAY KUMAR CHOUDHARY S/O Sri Ramanand Choudhary Posted As
Purush Family Welfare Worker In Primary Health Centre, Ujiyarpur,
Samastipur, R/O Mohalla- Bahadurpur, P.S. And Distt.- Samastipur

... .. Appellant/s

Versus

1. The State Of Bihar through the Director-in-Chief, Health Services, Patna.
2. The Civil Surgeon Cum Chief Medical Officer Madhubani, Bihar
3. The Civil Surgeon Cum Chief Medical Officer, Samastipur, Bihar
4. The Addl. Director, Health Services, Bihar, Patna
5. The Incharge, Medical Officer Primary Health Centre, Ujiyarpur, Distt.-
Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ajoy Kumar Chakraborty, Adv
For the Respondent/s : Mr..Rajesh Singh GP-16

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-12-2021

Heard learned counsel for the parties.

This LPA under Clause 10 of Letters Patent Appeal has
been preferred for setting aside the judgment and order dated
07.02.2011 in CWJC No. 16729 of 2009 (Sanjay Kumar
Choudhary Vs. the State of Bihar & Ors) passed by learned
Single Judge of this Court.

Since the State has seriously challenged the authenticity
of the documents placed on record by the writ petitioner-

appellant herein, hence disputed questions of fact arise which cannot be easily adjudicated in the present petition, as such, as jointly prayed for we are passing the following order:-

The learned Single Judge had dismissed the writ petition of appellant vide order dated **07.02.2011** passed in **CWJC No. 16729 of 2009 (Sanjay Kumar Choudhary Vs. the State of Bihar & Ors)**, which is reproduced hereinbelow:-

“Heard learned counsel for the petitioner.

Annexure-6 is the finding given by the Five Members Committee which came to be appointed at the behest of the High Court to examine the legality of the appointment of many a candidates including the present petitioner. The name of the petitioner figured at serial no. 67 wherein the finding is that the appointment of the petitioner was based on a forged appointment letter. It has been clearly recorded that the letter no. 1037 Madhubani dated 17.6.87 (Annexure-1) was not even issued from the office of the concerned Civil Surgeon.

In view of above no interference is warranted in the writ application for giving any direction for appointment of the petitioner because it is not a case of irregular appointment but it is case of illegal appointment based on forged appointment letter. This writ application is dismissed.”

Against the order passed by learned Single Judge appellant had preferred this appeal in which on 11.09.2018, following order was passed:-

“It is stated on behalf of the State that the similar matter has finally been heard by the Hon'ble Supreme Court and the judgment has been reserved in Special Leave to Appeal(C) No.(s). 11885/2012 (the State of Bihar and others Vs. Devendra Sharma) and other analogous matters.

In view of the aforesaid submission, list this appeal after disposal of Special Leave to Appeal(C) No. 11885/2012 and the analogous appeals.”

It is not in dispute before us that the issue with regard to the appointments, whether illegal or irregular now stands settled vide judgment of Hon’ble the Apex Court in the case of **State of Bihar and Ors. vs. Devendra Sharma** since reported in **(2020) 15 SCC 466**.

The writ petitioner/appellant’s case is now to be factually verified in view of the principles enunciated in the said decision.

In this view of the matter, as jointly prayed for, we dispose of the present appeal with a direction to the respondent authority to consider the case of the writ petitioner/appellant in the light of the ratio laid down in **Devendra Sharma (supra)**.

Appellant shall approach the respondent authority within a period of four weeks for which period status quo as on date shall be maintained, failing which there shall be automatic vacation of the order, with all consequences to follow.

However, as and when any such request is received, the same shall be considered and decided in accordance with law within a period of two months thereafter. The authority shall pass an order accounting for all the attending facts and

circumstances of the present case, including the law laid down by the Hon'ble Apex Court in **Devendra Sharma (supra)**. Whether the writ petitioner/appellant's appointment is illegal or irregular would be examined with all resultant consequences.

Copy of the order assigning reason shall be supplied to the writ petitioner/appellant.

Liberty reserved to writ petitioner/appellant to approach the court, should the need so arise subsequently, on the same and subsequent cause of action.

The appeal stands disposed of with aforesaid observation and direction.

Interlocutory application (s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/sanjay-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.12.2021
Transmission Date	NA