

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.292 of 2014**  
**In**  
**Civil Writ Jurisdiction Case No.15687 of 2009**

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1. The State Of Bihar
2. The Principal Secretary, Health Department, Bihar, Patna
3. The Director-In-Chief, Health Services, Bihar, Patna
4. The Civil Surgeon-Cum-Chief Medical Officer, Madhubani
5. The Medical Officer In-Charge, Primary Health Centre, Madhepura, Madhubani

... .. Appellant/s

Versus

1. Pawan Kumar Jha, Son Of Late Batuk Nath Jha, Resident Of Village Bhitha Bhagwanpur, P.S. Madhepura, District Madhubani
2. Mani Kant Jha, Son Of Late Prabodh Jha, Resident Of Village Beloun, P.S. Bahera, District Darbhanga

... .. Respondent/s

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**Appearance :**

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| For the Appellant/s  | : | Mr.Pushkar Narain Shahi, AAG-6 |
|                      |   | Mr. Patanjali Rishi, Adv       |
| For the Respondent/s | : | Mr. Prafull chandra Jha, Adv   |

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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 03.03.2011 in CWJC No. 15687 of 2009 (Pawan Kumar Jha & Anr Vs. state of Bihar & Ors and its analogous cases) 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-respondent herein hence disputed question 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 disposed of the writ petition vide order dated 03.03.2011 passed in CWJC No. 15687 of 2009 (Pawan Kumar Jha & Anr Vs. state of Bihar & Ors and its analogous cases), which is reproduced hereinbelow:-

“Having heard learned counsel for the petitioners and learned counsel for the State, this writ application is disposed of in terms of the order dated 18.5.2009 passed in CWJC No. 6078 of 2009 which is annexure-18 to the writ application. The facts of this writ application are similar to that of CWJC No. 6078 of 2009.

“The impugned order classifying the petitioners as forged appointees in the present form is not sustainable. It is accordingly set aside. The respondents are granted liberty to proceed afresh against the petitioners in accordance with law, if they so desire. In any such proceeding, the respondents are directed to bring within the ambit of such proceeding the officials who appointed the petitioners or permitted them to continue in service. If the petitioners are found to be illegal appointees and asked to go such officers are also required to be proceeded with simultaneously either under the Service Rules, the Indian Penal Code or the Bihar Pension Rules, as the case may be.

The petitioners are directed to be reinstated subject to the aforesaid conditions.”

Let the necessary exercise be carried out within a reasonable time frame.

Against the order passed by learned Single Judge State of Bihar had preferred this appeal in which on 10.11.2020

following order was passed:-

“10.11.2020

Learned counsel, who appears on behalf of the respondent herein/original writ-petitioner, prays for an adjournment.

On behalf of the State, it is pointed out that the matter in issue is squarely covered vide judgment dated 17th of October, 2019 passed by Hon’ble the Apex Court in Civil Appeal No. 7879 of 2019 arising out of S.L.P. (Civil) No. 11885 of 2012 titled as State of Bihar Vs. Devendra Sharma.

To enable the learned counsel for the writ petitioner to complete his instructions as also peruse the aforesaid judgment, matter is adjourned.

List in the category of ‘Order Matters’ on 7 th of December, 2020.”

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/respondent 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 appellant authority to consider the case of the writ petitioner/respondent

herein in the light of the ratio laid down in **Devendra Sharma (supra)**.

Writ petitioner/respondent herein shall approach the appellant 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/respondent'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/respondent herein .

Liberty reserved to writ petitioner/respondent herein 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

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