

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1644 of 2014

In

Civil Writ Jurisdiction Case No.20511 of 2011

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Upendra Kumar Singh S/o Sri Pashupati Nath Singh Resident of Village
Madhurapur, Police Station Teghra, District Begusarai.

...Petitioner ... Appellant/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Health,
Govt. of Bihar, Patna
2. Director-in-Chief, Health Services, Govt. of Bihar, Patna.
3. Deputy Director Family Welfare Health Service, Bihar, Patna.
4. Civil Surgeon-cum-Chief Medical Officer, Begusarai.
5. Incharge Medical Officer, Primary Health Centre, Barauni, District
Begusarai.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Pushkar Narain Shahi, AAG-6
		Mr. Patanjali Rishi, Adv
For the Respondent/s	:	Mr. Gajanan Arun, 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
01.09.2014 in CWJC No. 20511 of 2011 (Upendra Kumar Singh
& 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-

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 disposed of the writ petition vide order dated 01.09.2014 passed in CWJC No. 20511 of 2011 (Upendra Kumar Singh & Anr Vs. State of Bihar & Ors and its analogous cases).

Against the order passed by learned Single Judge appellant had preferred this appeal in which on 10.11.2020, following order was passed:-

“10.11.2020

Shri Shiv Kumar, 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 26th of November, 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/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	
CAV DATE	
Uploading Date	10.12.2021
Transmission Date	