

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.11 of 2022

In

Civil Writ Jurisdiction Case No.20663 of 2021

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1. Manuj Kumar, male, aged about 39 years, Son of Biranchi Prasad Mandal, resident of Village - Ratanpur, P.S. - Bariarpur, District - Munger.
 2. Anshu Kumar, male, aged about 28 years, Son of Dilipkumar Thakur, resident of Village - Salampur, P.S. - Parbatta, District - Khagariya.
 3. Amardeep Kumar, male, aged about 27 years, Son of Jugal Kishore Prasad, resident of Village - Tialaiyabigha, P.S.- Hisua, District - Nawada.
 4. Rajeev Ranjan Prasad Gupta, male, aged about 30 years, Son of Dilip Sah, resident of Village - Jhammam Gunj, P.S. - Jandaha, District - Vaishali.
 5. Shahnawaz Alam, male, aged about 28 years, Son of Md. Alauddin, resident of New Karimgunj, Road no. 3, P.S. - Civil Lines, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms.
3. The Additional Chief Secretary, Department of Revenue and Land Reforms.
4. The Director, Directorate of Land Record and Survey, Department of Revenue and Land Reforms.

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Nivedita Nirvikar, Sr. Adv.

For the State : Ms. Nutan Sahay, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)



Date : 18-10-2022

Heard the learned counsel for the parties.

2. The appellants had approached the learned Single Judge *vide* C.W.J.C. No. 20663 of 2021 with a prayer to issue a writ of *Mandamus* to the respondents to implement the decision taken by the Directorate, Land Record and Survey, Department of Revenue and Land Reforms on 27.08.2021 to fill-up the vacant posts from amongst the persons/appellants who found their place in the merit-list, but in the wait-list.

3. From the perusal of the writ records, it appears that against an advertisement for filling-up the posts of Special Survey Amin, an exercise was undertaken and against 6875 sanctioned posts, 6842 candidates were recommended. Out of the aforesaid candidates who had been recommended, only 4781 candidates joined the posts. 1971 posts remained vacant despite the Directorate giving many opportunities to the selected candidates to join their respective duties.



4. Ultimately, by order dated 27.08.2021, 1971 posts of Special Survey Amin were declared to be vacant and a decision was taken that against such leftover vacant posts, persons from the want-list candidates would be adjusted after counseling.

5. The decision on 27.08.2021, referred to above, was not taken to its logical conclusion, forcing the appellants to make series of representations before the concerned authorities, but to no avail.

6. It was under the aforesaid circumstance that C.W.J.C. No. 20663 of 2021, referred to above, was filed.

7. The learned counsel appearing for the appellants laments that perhaps necessary communication could not be made before the learned Single Judge, who was of the view that the order passed by the Directorate on 27.08.2021 was on the basis of representations filed by the appellants, which is not correct. In fact, representations were filed by the



appellants for implementing the decision which the Directorate had taken and which was declared in the order dated 27.08.2021.

8. In any view of the matter, we find that the learned Single Judge directed the respondent authorities to take a decision and pass a speaking order on the representations preferred by the appellants within fixed period of time, *i.e.*, four months from the date of receipt of the order.

9. Ms. Nivedita Nirvikar, the learned Senior Advocate, submits that with such handling of the writ petitions preferred by the appellants, their rights could not be vindicated and in the interregnum, the Department has taken a decision of carrying out a fresh exercise for appointment of Special Survey Amins for which an advertisement also has been issued.

10. Ms. Nirvikar further points out that the afore-noted advertisement for filling-up of the vacant posts have been challenged by some of the appellants



and others, which has yet not been taken up for consideration.

11. We also find that such advertisement was taken out after the order was passed in the aforesaid C.W.J.C. No. 20663 of 2021.

12. This leaves us with a question, which perhaps has not been raised by the counsel for the appellants as to whether the representations preferred by the appellants were disposed off by the concerned authority and whether that was required to be done before taking a decision with respect to initiating a fresh exercise for recruiting Special Survey Amins.

13. It is for the appellants to agitate before the appropriate forum that the order passed by the learned Single Judge was flouted with impunity and an attempt has been made by the Directorate to frustrate the claim of the appellants, thereby completely negating their legitimate expectation of being appointed.

14. It would also be open for the appellants



to press the aforesaid issue before the learned Single Judge, where it has been challenged.

15. With the aforesaid observation/direction, we dispose off this appeal.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

Praveen-II/Sonali/-

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