

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10185 of 1999

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Madan Mohan Paswan Son of Yadu Nandan Paswan, Resident of Village-
Pastwar, Post Office- Khirhi Baluaha, P.S.- Mahishi, District- Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through its Chief Secretary Old Secretariat Building,
Patna.
2. The Secretary, Department of Water Resources, New Secretariat Building,
Patna.
3. The Deputy Secretary, Department of Water, Resources, Sinchai Bhawan,
patna.
4. The Director, Land Acquisition and Rehabilitation, Sinchai Bhawan, Patna.
5. The Rehabilitation Officer, Koshi Project, Supaul at P.O.- Supaul, District-
Supaul.

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 9886 of 2001

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1. Daya Shankar Prasad, Son of Late Shivendra Prasad, Resident of Village-
Manigachhi- Kathara, Post- Manigachhi, P.S.- Manigachhi, District-
Darbhanga.
 2. Md. Rahmat Karim, Son of Abdul Subhan, Resident of Village- Supaul,
Post- Shivram, Via- Nehra, P.S.- Bahera, District- Darbhanga.

... .. Petitioners

Versus

1. The State of Bihar
2. The Secretary, Water Resources (Irrigation) Department, Government of
Bihar, Patna.
3. The Director, Land Acquisition, Rehabilitation, Water Resources
Department, Government of Bihar, Patna.
4. The Special Land Acquisition Officer, Koshi Project, Darbhanga.

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 11617 of 2001

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Sunil Kumar Singh Son of Sri Dina Nath Singh, Resident of village-
Sukharam (Chaka), Post- Sukhram (Chaka), P.S.- Madhepura, District-
Madhepura.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Secretary, Water Resources (Irrigation) Department, Government of
Bihar, Patna.
3. The Director, Land Acquisition, Rehabilitation, Water Resources
Department, Government of Bihar, Patna.

... .. Respondents

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with



Civil Writ Jurisdiction Case No. 1669 of 2002

Anand Kumar son of Late Rajendra Prasad Sinha, Resident of Mohalla- 145
Slum Flat Kankarbagh Colony, P.S.- Kankarbagh, District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Commissioner, (Water Resources), Government of Bihar, Patna.
3. Director, Land Acquisition and Rehabilitation, (Water Resources Department), Sinchai Bhawan, Bihar, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 4256 of 2002

Kaushlendra Kumar Jha Son of Late Mahendra Narayan Jha, Resident of
village- Balia, P.S.- Sakari, District- Madhubani

... .. Petitioner

Versus

1. The State Of Bihar through Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna.
3. The Special Land Acquisition Officer, Koshi Project, Saharsa.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 4941 of 2002

Chandeshwar Thakur Son of Late Lal Jevan Thakur, Resident of Village-
Dhandhar Bigha, P.S.- and District- Jahanabad.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 5186 of 2002

Sanjeev Kumar Son of Sri Raj Kishore Singh, Resident of Village- Harpura,
P.S.- Bikram, District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.



... .. Respondents

with

Civil Writ Jurisdiction Case No. 3070 of 2003

Ajay Kumar son of Sri Ram Narayan Dwivedi, Resident of Village- Rulahi,
Police Station- Majhauriya, District- West Champaran

... .. Petitioner

Versus

1. The State Of Bihar through the Secretary-cum-Commissioner, Water Resources Department, Government of Bihar, at Patna.
3. The Director, Land Acquisition and Rehabilitation, under Water Resources Department, Government of Bihar at Patna.
4. The Special Land Acquisition Officer, Gandak Project, Muzaffarpur.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 6581 of 2003

Moti Lal Sah Son of Shri Lakh Raj Sah, Resident of Village- Mishrauli, P.S.-
Kateya, District- Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 7052 of 2003

Braj Bhushan Pd.Srivastava Son of Sri Satya Narayan Lal, Resident of
Village- Kamalpur, P.S.- Brauli, District- Gopalganj.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 7203 of 2003

Satyendra Kumar Chourasia Son of Shri Garbhu Mahto, Resident of Village-
Balwapar, P.S.- Harnaut, District- Nalanda.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Secretary, Water Resources Department, Government of Bihar, Patna.



3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Sinchai Bhawan, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 7257 of 2003

Dhirendra Kumar Singh son of Late Ramjanam Singh, Resident of Village- Mahamadpur, Varsiyama, P.S.- Akangar Sarai, District- Nalanda.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 11664 of 2003

Badri Narayan Jha son of Late Deo Narayan Jha, Resident of village- Damodarpur, P.S.- Benipatti, District- Madhubani.

... .. Petitioner

Versus

1. The State Of Bihar through Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna.
3. The Special Land Acquisition Officer, Gandak Project, Muzaffarpur.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 12703 of 2003

Jagmohan Sada Son of Sri Subodh Sada, Resident of Village- Sataur Tola- Belahi, P.S.- Nauhatta, District- Saharsa.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Secretary, Department of Water Resources, Patna.
3. The Director, Land Acquisition, Rehabilitation, Bihar, Patna.
4. The Rehabilitation Officer, Department of Water Resources, District- Supaul.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 2321 of 2004

Manoj Kumar Singh Son of Vishva Mohan Prasad Singh, Resident of Village- Naya Nagar, P.S.- Hasanpur, District- Samastipur.

... .. Petitioner

Versus



1. The State Of Bihar.
2. The Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 10185 of 1999)

For the Petitioner/s : Mr. Shashi Dhar Jha, Advocate

For the Respondent/s : Mr. Anirban Kundu, SC-24

(In Civil Writ Jurisdiction Case No. 9886 of 2001)

For the Petitioner/s : Mr. Niranjana Kumar, Advocate

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 11617 of 2001)

For the Petitioner/s : Mr. Niranjana Kumar, Advocate

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 1669 of 2002)

For the Petitioner/s : Mr. Barun Kr. Choudhary, Advocate

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 4256 of 2002)

For the Petitioner/s : Mr. Barun Kumar Choudhary, Advocate

For the Respondent/s : Mr. Raghwanand, GA-11

Mr. Sanjay Kumar Tiwary, AC to GA-11

(In Civil Writ Jurisdiction Case No. 4941 of 2002)

For the Petitioner/s : Mr. Jailendra Prasad Singh, Advocate

Mr. Santosh Kumar Verma, Advocate

For the Respondent/s : Mr. Sanjay Kumar Tiwary, AC to GA-11

(In Civil Writ Jurisdiction Case No. 5186 of 2002)

For the Petitioner/s : Mr. Ravindra Nath Dubey, Advocate

Mr. Sanjay Kumar Singh, Advocate

Ms. Punam Kumari, Advocate

For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG-13

Ms. Sunita Kumari, AC to AAG-13

(In Civil Writ Jurisdiction Case No. 3070 of 2003)

For the Petitioner/s : Mr. Anant Kumar Bhaskar, Advocate

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 6581 of 2003)

For the Petitioner/s : Mr. Ravindra Nath Dubey, Advocate

Mr. Sanjay Kumar Singh, Advocate

For the Respondent/s : Mr. Dhurjati Kumar Prasad, GP-14

(In Civil Writ Jurisdiction Case No. 7052 of 2003)

For the Petitioner/s : Mr. Ravindra Nath Dubey, Advocate

Mr. Sanjay Kumar Singh, Advocate

For the Respondent/s : Mr. Dhurjati Kumar Prasad, GP-14

(In Civil Writ Jurisdiction Case No. 7203 of 2003)

For the Petitioner/s : Mr. Barun Kr. Choudhary, Advocate

Mr. Lalit Narayan Jha, Advocate

For the Respondent/s : Mr. Anirban Kundu, SC-24

(In Civil Writ Jurisdiction Case No. 7257 of 2003)

For the Petitioner/s : Mr. Ravindra Nath Dubey, Advocate

Mr. Sanjay Kumar Singh, Advocate

Ms. Punam Kumari, Advocate

For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG-13

Ms. Sunita Kumari, AC to AAG-13

(In Civil Writ Jurisdiction Case No. 11664 of 2003)



For the Petitioner/s : Mr. Barun Kr.Choudhary, Advocate
For the Respondent/s : Mr.
(In Civil Writ Jurisdiction Case No. 12703 of 2003)
For the Petitioner/s : Mr. Bhanu Pratap Singh, Advocate
Mr. Jharkhandi Upadhyay, Advocate
Mr. Bhaskar Shakar, Advocate
For the Respondent/s : Mr.
(In Civil Writ Jurisdiction Case No. 2321 of 2004)
For the Petitioner/s : Mr. Ravindra Nath Dubey, Advocate
Mr. Sanjay Kumar Singh, Advocate
Ms. Punam Kumari, Advocate
For the Respondent/s : Mr. Sitaram Yadav, GP-16
Mr. Yatindra Narayan, AC to GP-16

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 21-02-2023 These cases were awaiting the judgment of the

Hon'ble Supreme Court in Special Leave to Appeal (C) No.

3431 of 2017. The order dated 21.09.2017 passed in the batch of

these writ applications reads as under:-

“Considering the fact that the question involved in these writ petitions is pending consideration before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 3431 of 2017, wherein identical issues decided in favour of the petitioners by a learned Single Judge of this Court on 31.10.2013 in CWJC No. 9042 of 2011 was under consideration, the matter stands adjourned to be listed after the said Appeal before the Supreme Court is decided.”

It is not in dispute that in all these cases, the petitioners were appointed without advertisement and without following the established procedure for selection on a public post. Earlier a challenge to the termination by some of the aggrieved persons in CWJC No. 9042 of 2011 succeeded. The learned writ court allowed CWJC No. 9042 of 2011 on 31st



October, 2013 and held that the order of termination was bad in law. The respondents were directed to reinstate the petitioners of the said writ application. The State of Bihar, however, went in appeal giving rise to Letters Patent Appeal No. 623 of 2014 which was heard and disposed of vide judgment dated 20.10.2016. The operative part of the judgment of the Hon'ble Division Bench in L.P.A. No. 623 of 2014 reads as under:-

“We have heard learned counsel for the parties and find that the order passed by the learned Single Bench is not sustainable in law. The learned Single Bench allowed the writ application on the ground that the appointment was made by a person, who was vested power to make appointment and was appointed against sanctioned and vacant post. Even if that be so, but appointment against a sanctioned post can be made only after following the due procedure for making appointment against the public post, i.e. after wide publicity and giving opportunity to all eligible candidates to apply and to be considered. Such is the view of the Full Bench of this Court in Ram Sevak Yadav's case (supra) wherein it is has been held as follows:-

“43. We therefore sum up our conclusions and answer the reference as follows :-

(A) Uma Devi (supra) prohibits regularisation of daily wage, casual, ad-hoc and temporary appointments, the period of service being irrelevant;

(B) An illegal appointment void ab-initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularised under any circumstances.

(C) Irregular appointments can be regularised if



the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any court orders.”

In the light of the aforesaid judgment, we find that the order of termination of the writ applicant could not have been interfered with by the learned Single Bench. Plea of discrimination is untenable for the reason that there cannot be any parity in illegality. Reference may be made to the decisions of the Supreme Court in the cases of Chandigarh Administration Vs. Jagjit Singh, (1995) 1 SCC 745, and Kulwinder Pal Singh Vs. State of Punjab, AIR 2016 SC 2281.

In view of the above, we find that the order passed by the learned Single Bench is not sustainable. Consequently, the Letters Patent Appeal is allowed and the order passed by the learned Single Bench is set aside and the writ application is dismissed.”

The judgment of the Hon’ble Division Bench in L.P.A. No. 623 of 2014 was subject matter of challenge before the Hon’ble Supreme Court in Special Leave To Appeal (C) No. 3431 of 2017. The Hon’ble Supreme Court did not interfere with the judgment of the Hon’ble Division Bench and observed interalia as under:-



“.. we see no reason to interfere with the impugned judgment and order passed by the High Court. As such, we are in complete agreement with the view taken by the High Court. The Special Leave Petition Stands dismissed.”

Learned counsel for the petitioners as well as learned counsel for the State agree that the writ applications would be covered by the judgment of the Hon’ble Division Bench which has been approved by the Hon’ble Supreme Court.

In the aforesaid view of the matter, these writ petitions are dismissed.

(Rajeev Ranjan Prasad, J)

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