

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18324 of 2013

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1. Surendra Chaudhary and Ors Son Of Ram Pratap Choudhary Resident Of Village P.S. Tisiauta, District - Vaishali
 2. Ganesh Sahni Son Of Sri Garbhu Sahni R/O Village - Matiaya, Block - Patepur, P.S. Tisiauta, District - Vaishali
 3. Saroj Kumar Singh Son Of Sri Shiv Sagar Singh R/O Village - Kajipatti, P.S. Bidupur, District - Vaishali
 4. Rajesh Kumar Sahni Son Of Sri Kailash Sahni R/O Village - Matiaya, Block - Patepur, P.S. Tisiauta, District - Vaishali
 5. Shashi Bhushan Kumar Singh Son Of Sri Sita Ram Singh R/O Village - Kakarahat, P.O. Dhobauli, District - Vaishali
 6. Raj Kumar Singh Son Of Late Ram Chandra Singh R/O Village - Saidpur, P.S. Bidupur, District - Vaishali
 7. Machchu Sahni Son Of Ram Chandra Sahni R/O Village - Khesarahi, P.S. Patepur, District - Vaishali
 8. Uma Shankar Ray Son Of Sri Ram Chandra Ray R/O Village - Narayanpur, Dedhypura, P.S. Mahanar, District - Vaishali
 9. Dipak Kumar Mishra Son Of Late Vishwanath Mishra R/O Village - Kariyan, P.S. Rosera, District - Samastipur
 10. Nand Kumar Singh Son Of Sri Bhaj Kishore Singh R/O Village - Dhanaura, P.S. Avatar Nagar, District - Saran
 11. Suresh Kumar Singh Son Of Late Ram Bhajan Singh Resident Of Village - Kajipatti, Police Station - Bidupur, District - Vaishali
 12. Sanjay Kumar Sahni Son Of Sri Ram Babu Sahni R/O Village - Chapata, P.S. Tisiauta, District - Vaishali

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna
2. The Principal Chief Conservator Of Forest Cum Nodol Officer, Hariyali Mission Programme, Govt. Of B
3. The Principal Conservator Of Forest, Bihar, Patna
4. The District Magistrate, Vaishali At Hajipur
5. The Additional Principal Chief Conservator Of Forest, Bihar, Patna
6. The Director Hariyali Mission, Department Of Forest And Environment, Govt. Of Bihar, Patna
7. The Divisional Forest Officer, Saran At Chapra

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Niraj Kumar, Adv.
For the Respondent/s : Mr. Manoj Kr. Ambastha, Adv.

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 17-01-2023 1. The petitioners by way of this writ petition prays
as under:-

*“That the petitioners seeks indulgence of this Hon’ble Court for issuance of writ of Mandamus commanding the respondents to adjust them (petitioners) in the **Programme of Hariyali Mission** being run by the respondents no. 1, 2 and 6 and for any other relief(s) to which the petitioners are entitled.*

The petitioner seeks indulgence of this Hon’ble Court to grant him any other relief/s for which he is entitled in the facts and circumstance of the case.”

2. The Scheme (**Programme of Haraiyali Mission**) was for a particular period which is no more existing. A writ for directing the respondents to adjust the petitioners in a particular Scheme would not lie, as no right is available to an individual to be adjusted or be appointed in a particular Scheme on the basis of having worked in any other Scheme previously.

3. Hon’ble Apex Court in **2006 (4) SCC 132 (Avas Vikas Sansthan & Anr. Vs. AVS Engineers Association & Ors.)** has held as under:-

“49. In Rajendra v. State of



Rajasthan [(1999) 2 SCC 317 : 1999 SCC (L&S) 551] and S.M. Nilajkar v. Telecom District Manager [(2003) 4 SCC 27 : 2003 SCC (L&S) 380] where a project has been shut down due to want of funds the employer cannot by a writ of mandamus be directed to continue employing such employees as have been dislodged because such a direction would amount to requisition for creation of posts though not required by the employer and funding such posts though the employer did not have the funds available for the purpose. This finding is applicable in the present matter and therefore the finding of the High Court is not fair to common conscience and also that the same will act as a disincentive to the State to float such schemes in future, thereby reducing the employment opportunities of many.

Power to abolish civil posts

50. It is settled law that the power to abolish any civil post is inherent in every sovereign Government and such abolition will not entail any right on the person holding the abolished post the right to re-employment or to hold the same post. In the present case, the State Government was benevolent enough to float a scheme to absorb such employees whose posts were abolished. Therefore, in our opinion, the arguments advanced by the counsel for the respondents with regard to unfairness meted out to the employees of the Avas Vikas Sansthan hold no water.”



3. The prayer of the petitioners is mis-conceived and accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 70

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