

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11438 of 2018

Monika Kumari Daughter of Late Ladua Devi and Late Ballabh Ram, Wife of Sudhir Kumar, Resident of Village- Khaira Tali, P.O.- Mitan Chakk, P.S.- Parsa Bazar, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary Water Resource Department, Government of Bihar.
2. The Chief Engineer Mechanical, Water, Bihar, Patna.
3. The Superintending Engineer Mechanical Irrigation Mechanical Division Birpur, Supaul.
4. Executive Engineer, Mechanical, Irrigation Division, Birupur Supaul.
5. Accountant General, Bihar, Patna, Virchand Patel Path, Patna.
6. Accountant Officer, Govt. of Bihar, Patna.
7. Treasury Officer, Govt. of Bihar, Patna.
8. Dilip Kumar Singh, Son of Late Raj Ballabh Singh @ Raj Ballabh Ram,
9. Tara Devi, Wife of Raj Kumar, Both are resident of Quarter No.400, I.T. Bhim Nagar, P.S.- Bhim Nagar, Post Office- Virpur, District- Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhitabh Kumar, Advocate
For the Respondent No. 8	:	Mr. Ghan Shyam, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 04-12-2023

Heard Mr. Abhitabh Kumar, learned counsel appearing on behalf of the petitioner and Mr. Ghan Shyam, learned counsel for the respondent no. 8.

2. The petitioner claiming herself to be daughter of late Raj Ballabh Singh @ Raj Ballabh Ram filed the present writ petition seeking quashing of the Letter No. 367/Birpur dated 09.05.2018 (Annexure – 5 to the writ petition) whereby, the respondent no. 3 sent a letter to the Chief Engineer



(Mechanical), Water Resource Department, Patna informing him that after proper enquiry, direction has been given to Executive Engineer (Mechanical) Irrigation Division, Birpur to release the final payment in favour of the respondent no. 8, in the light of the succession certificate and other documents in respect to the death-cum-retiral benefits of Late Ladua Devi, who happens to be mother of the petitioner.

3. It is submitted on behalf of the petitioner that her mother (Late Ladua Devi) died in harness on 13.10.2017, leaving behind the petitioner and one son (respondent no. 8) and one daughter (respondent no. 9) and thus, after the death of her mother, all the three heirs were entitled to receive equal share of their late mother. He next submitted that despite the application filed before the concerned respondents to apportion the terminal benefits in equal share amongst the heirs, the same has not been done, thus under such circumstances, she compelled to approach before this Court. After the death of the mother, the respondent no. 8 has obtained a succession certificate and on the basis thereof, he filed an application before the concerned respondent Executive Engineer, (Mechanical) Irrigation Division, Birpur, however, despite the objection made by the petitioner, the order has been passed to release the death-cum-retiral benefits in his



favour.

4. He further submits that in identical situation, the Division Bench of this Court in case of ***Shiv Shankar Arya Vs. The Union Of India*** since reported in ***2016 (2) PLJR 477***, has held that the nomination is only authority to receive payments or properties and give valid discharge to the person making payment. Nominee would not become an absolute owner upon the receipt of the properties, but is as a trustee for the heirs. He, thus, submits that as per the mandate of the Division Bench of this Court, the petitioner is also entitle to receive share in the death-cum-retiral benefits.

5. On the other hand, learned counsel representing the respondent no. 8 submits that admittedly the petitioner was nominated by the erstwhile employee, who died in harness and on being asked by the department, he furnished the proper succession certificate on the basis of which all the death-cum-retiral benefits has been accorded to him and in any view of the matter, the petitioner is not entitled for any share. All the more, when she herself filed an affidavit of no objection.

6. Having heard the parties and considering the nature of dispute, this Court refrain to exercise its prerogative writ jurisdiction, however, it would be proper to direct the petitioner



to approach before the appropriate forum or to file a proper representation along with the order of the Division Bench on which, reliance has been made, before the respondent no. 4, preferably within a period of four weeks, who shall consider the same and pass an appropriate order preferably within a further period of eight weeks, thereafter.

7. Accordingly, the present writ petition stands disposed of.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.12.2023.
Transmission Date	NA

