

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.942 of 2018

In

Letters Patent Appeal No.1518 of 2010

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Suresh Prasad Suman Son of Sri Yogeshwar Narayan Yadav, posted as BHW
Basic Health Worker, Primary Health Centre, Ghoy Resident of Village-
Poari, Police Station- Bisfi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Director In Chief Health Services Adm. ,
Bihar, Patna and Ors
2. Dr. H.M. Divakar, The Director-in-Chief Health Services, Bihar, Patna.
3. Dr. Amar Nath Jha, The Civil Surgeon-cum-Chief Medical Officer,
Madhubani.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajoy Kumar Chakraborty, Advocate

For the Opposite Party/s : Mr. Neeraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 20-04-2023

Mr. Ajoy Kumar Chakraborty, learned Advocate

for the petitioner has argued that the judgment passed in
LPA No. 1518 of 2010 and in review of such judgment in
Civil Review No. 384 of 2011 have not been complied with
as yet.

Mr. Neeraj Kumar, learned Advocate for the

State, however, has pointed out that the decision in favor



of the appellant is based solely on the judgment rendered in LPA No. 250 of 2011, which stands reviewed.

Hence, any observation in favour of the petitioner in the aforementioned LPA and review petition would not come to his avail. He has also submitted that in several of the SLPs against judgment of the Division Bench which were also based on the judgment passed in LPA No. 230 of 2011 were decided by the Supreme Court and it was found that in all such cases, the appointments were illegal in terms of ratio of the Supreme Court judgment passed in ***Secretary State of Karnataka Vs. Uma Devi reported in 2006 (2) P.L.J.R. SC 363.***

As such appointments were made without any sanctioned post; or advertisement, giving opportunity to all eligible candidates to apply and seek public employment and without any method of recruitment, such appointments would be back-door entries which would be an act of nepotism and favouritism and thus from any judicial



standard cannot be said to be irregular appointments but only illegal appointments in a wholly arbitrary process.

The aforementioned judgments of the Supreme Court in SLPs is against all such decisions which were based on the judgment of the Division Bench in LPA No. 230 of 2011.

Even if the judgment in favor of the petitioner has not been challenged, such judgment cannot be enforced judicially.

In that view of the matter, we do not find any merit in this contempt petition and thus, we dismiss it but with the liberty to the petitioner to approach the appropriate authority for the needful, if so desired.

(Ashutosh Kumar, J)

(Harish Kumar, J)

krishna/shivank

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