

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1067 of 2019

In

Civil Writ Jurisdiction Case No.19791 of 2018

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1. Yogita Singh, Daughter of Sri Ramjee Singh, Resident of Mohalla- Civil Line, Ward No. 17, near Jai Ram Atta Mill, P.S.- Town Buxar, District- Buxar.
 2. Punita Kumari, Wife of Sanjay Kumar, Resident of C/o - Pro Mani Shankar Prasad, Mohalla - Gajadhar Ganj, Collecteriate Road, P.S. - Town Buxar, District- Buxar.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Social Welfare, Government of Bihar, Patna.
3. The Director, I.C.D.S., Bihar, Patna.
4. The Divisional Commissioner, Patna.
5. The District Magistrate, Buxar.
6. The District Programme Officer, I.C.D.S., Buxar.
7. Bindu Kumari (Complainant), Wife of Sunil Kumar Keshri, Resident of Station Road, Infront of D.A.V. School, P.O.- Gajadharganj, P.S.- Buxar (Town), District- Buxar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sudhir Kumar Singh, Advocate Ms. Bandana Singh, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha (GA-7) Mr. Umesh Kumar Mishra, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-05-2023

The appellants who were the petitioners before the Writ Court were aggrieved by their termination. The appellants admittedly were contract employees appointed after a due selection process. One of the candidates, who was unsuccessful,



filed a complaint before the Commissioner, Patna Division. The Commissioner found that there was some irregularity in the appointment of five persons after an inquiry, but set aside the entire selection made as illegal. All the 42 persons appointed in the selection process were terminated. Writ-petitions were filed consequent to the termination challenging the same and also the fresh selection proceeded with for appointing contract employees in the place of those terminated. One of such writ petitions was dismissed directing the terminated persons also to be included in the fresh selection process after giving them due relaxation and also considering their seven years of service. An appeal was filed from the aforesaid judgment in Letters Patent Appeal No. 770 of 2019. A coordinate Bench of this Court called for a report from the Director, ICDS who specifically stated that irregularity was only in the case of five named persons and the seventeen writ-petitioners therein were properly appointed and they were qualified to be so appointed. The selection hence was found to be legal and carried out in a proper manner. The Division Bench held so in the operative portion of the judgment:-

“In view of the facts and circumstances stated herein above, we respectfully disagree with the decision/observations of the learned Single



Judge passed in order dated 29.1.2019 in C.W.J.C. no. 18094 of 2018 and pass the following orders:

(i) The order contained in memo no. 401 dated 8.8.2018 of the Commissioner, Patna Division, Patna and order contained in memo no. 882 dated 13.8.2018 of the District Magistrate, Buxar impugned in the writ application are quashed so far as the appellants are concerned.

(ii) The appellants are directed to be reinstated in service with effect from the date of their termination with all consequential benefits.

(iii) The authorities concerned in the Social Welfare Department shall proceed with the process of selection for filling up the remaining vacancies after appointment of the appellants herein.”

Learned senior counsel appearing for the appellants submitted that in the LPA there was a stay of termination and hence the appellants herein were continued. Definitely, the benefit of the judgment of the coordinate Bench has to go to the appellants also. In such circumstances, we find no reason to sustain the order of the learned Single Judge which was prior to the judgment of the coordinate Bench now placed before us in



L.P.A. No. 770 of 2019. In such circumstances, we follow the aforesaid judgment and grant the same relief to the appellants but, however, make it clear that the qualifications and eligibility of the appellants will be verified and if at all the respondent authorities want to make regular appointment then necessarily the contractual appointees will have to give way.

The writ appeal stands allowed with the above reservation.

Interlocutory Application(s), if any, shall stand disposed of.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Anushka/PKP

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CAV DATE	
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