

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.57 of 2020

In

Civil Writ Jurisdiction Case No.21602 of 2018

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1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
 2. The District Compassionate Committee, Gaya through the Collector, Gaya.
 3. The District Magistrate, Gaya.
 4. The District Education Officer, Gaya.
 5. The District Programme Officer (Establishment), Gaya.

... .. Appellant/s

Versus

1. Rakesh Kumar Son of Late Bindeshwar Singh, Resident of village and P.O.- Maula Nagar, P.S.- Atri, District- Gaya.
2. Praveen, Son of Late Ganesh Singh, Resident of village- Baheliya Bigha, P.O and P.S.- Tekari, District- Gaya, Pin- 824236.
3. Akhilesh Kumar, Son of Late Durga Prasad Ram, Resident of village- Bahawalpur, P.O. and P.S.- Guraru, District- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Madhaw Prasad Yadav, G.P 23
For the Respondent/s	:	Mr. Amit Narayan, Advocate
		Mr. Bhavna Kumari, Advocate
		Mr. Abhigyan Kumari, Advocate
		Mr. Ashwani Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

6 08-08-2024 The present appeal has been filed under Clause 10 of Appendix E of the Patna High Court Rules, 1916 against the order dated 15.01.2019 passed by learned Single Judge in



C.W.J.C. No. 21602 of 2018.

2. Heard Mr. Madhav Prasad Yadav, learned counsel for the appellants and Mr. Amit Narayan, learned counsel for the respondents/original petitioners.

3. Learned Government counsel has mainly submitted that the present respondents / original petitioners are not entitled to the reliefs prayed for in the writ petition, despite which the learned Single Judge relying upon the decision rendered by Division Bench of this Court in L.P.A. No. 1472 of 2015, rendered on 18.04.2018, as well as relying upon the recommendation of the Compassionate Committee, directed the present appellants to consider the case of the original petitioners in light of the aforesaid recommendation as well as the decision. The appellants have, therefore, filed the present appeal. Learned counsel has tried to argue the case of the appellants on merits by contending that the original petitioners are not entitled to any relief in view of the Full Bench decision rendered by this Court as well as one subsequent judgment rendered by the Hon'ble Supreme Court on 18.07.2019 and, therefore, the impugned order passed by the learned Single Judge be set aside and the present appeal be allowed.

4. On the other hand, learned Advocate appearing for the



present respondents / original petitioners mainly submits that while disposing of the writ petition filed by the petitioners, the learned Single Judge did not give any direction to the original respondents, present appellants, to grant the benefits as prayed for by the petitioners. Instead the learned Single Judge asked the original respondents/ present appellants to consider the case of the petitioners therein keeping in view the recommendation of the concerned Committee as well as the decision rendered by the Division Bench. It is further submitted that, in fact, the present appellants immediately implemented the order passed by the learned Single Judge and thereby granted the benefit prayed for by the petitioners, subject to outcome of the appeal. Learned counsel has referred the said order which was passed on 30.07.2019. It is also submitted that against the order passed by the Division Bench in L.P.A. No. 1472 of 2015, the State preferred SLP before the Hon'ble Supreme Court, however, the said SLP was also dismissed on 23.09.2019 on the ground of limitation. Thus, the Hon'ble Supreme Court did not interfere with the decision rendered by the Division Bench of this Court which has been referred in the impugned order passed by learned Single Judge.

5. Learned Advocate for the original petitioners,



therefore, urge that the present LPA itself is misconceived and, therefore, the same may not be entertained.

6. We have considered the submissions canvassed by learned Advocates and the materials placed on record. It transpires from the record that the original petitioners in the writ petition, prayed for the following reliefs:

(i) For issuance of writ/s for directing respondents to appoint the petitioners on Class III post by following Government rules since their respective date of appointment on Panchayat / Block / Nagar Teacher as recommendation of their appointment on compassionate have been made for regular Class III post by respondent No. 2;

(ii) For issuance of writ/s for directing respondents to appoint the petitioner on regular post & regular pay scale of Assistant Teacher under the Government of the State of Bihar;

(iii) For issuance of writ/s for directing respondents to give all consequential benefits of regular service to petitioner as if he would have been appointed on regular post as 'Assistant Teacher' at the respective date of their joining as Panchayat/Block/Nagar Teacher;

(iv) For any other relief or reliefs to which the petitioner may be deemed entitled, may be granted to him.

7. The learned Single Judge considered the submissions canvassed by the learned counsel for the petitioners and thereafter, without going into the merits of the case of the



petitioners in detail, directed the present appellants / original respondents to consider the case of the petitioners in light of the recommendation of the Compassionate Committee as also the judgment rendered by Division Bench of this Court in the case the State of Bihar and others versus Rhituraj Saurabh and Another passed in L.P.A. No. 1472 of 2015. It is relevant to note that the writ petition was disposed of by the learned Single Judge and no specific direction was issued to the original petitioners / respondents to grant the benefits as prayed for in the petition.

8. Surprisingly, the appellants herein, without properly considering the direction issued by the learned Single Judge, examined the case of the original petitioners and thereafter granted benefits as prayed for by them vide order dated 30.07.2019, subject to the outcome of the L.P.A. which was not filed on the date of passing of the said order. From the record it transpires that the present L.P.A. has been filed by the appellants only in January, 2020 i.e. after giving the benefit to the petitioners. Thus, from the record it appears that the petitioners are getting benefit of the order dated 30.07.2019 since last more than five years. It is also relevant to note that against the order dated 18.04.2018 passed by Division



Bench in LPA No. 1472 of 2015 in the case of Rhituraj Saurabh (supra) the State filed S.L.P. before the Hon'ble Supreme Court. However, the Hon'ble Supreme Court vide order dated 23.09.2019 dismissed the said S.L.P. on the ground of limitation.

9. In any case, we are of the view that the learned Single Judge did not give any direction to the original respondents / present appellants to grant the benefits as prayed for in the petition. Instead an innocuous direction was issued to the original respondents / present appellants to consider the case of the original petitioners keeping in view certain aspects. We are of the view that, if the original petitioners were not entitled to the benefits as prayed for by them, it was always open for the original respondents to reject their claim. However, surprisingly, on one hand, without filing of the L.P.A. those benefits, as prayed for by the petitioners, were granted to them on 30.07.2019 and thereafter in January, 2020 the present L.P.A. is filed.

10. Thus, in the facts and circumstances of the present case, we are of the view that the present L.P.A. itself is misconceived and no interference is required to the order passed by the learned Single Judge.



11. The present Letters Patent Appeal, accordingly,
stands dismissed.

(Vipul M. Pancholi, J)

(Ramesh Chand Malviya, J)

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