

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.340 of 2019

In
Civil Writ Jurisdiction Case No.7965 of 2016

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1. The State of Bihar and Ors Through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
 2. The Deputy Secretary Home (Police), Department, Govt. of Bihar, Patna.
 3. The District Magistrate Kishanganj, Distt.- Kishanganj, (Bihar).
 4. The Superintendent of Police Kishanganj, Distt.- Kishanganj, (Bihar).
 5. The Sub- Divisional Officer Kishanganj, Distt.- Kishanganj, (Bihar).
 6. The Circle Officer Thakurganj, Distt.- Kishanganj, (Bihar).

... .. Appellant/s

Versus

1. Lakhi Chand Ganesh and Anr S/o Late Seltu Ganesh Res. of Vill.- and P.O.- Pipri Thana, P.S.- Kurlikote, Distt.- Kishanganj,(Bihar).
2. Satye Narayan Roy S/o Late Tikam Lal Roy Res. of Vill.- Ghuayar, Danga, P.O.- Jerangach, P.S.- Thakurganj, Distt.- Kishanganj, (Bihar).

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjay Kumar (AC To AAG 4)
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

5 01-07-2024

Re:- I.A. No. 01 of 2019

Heard I.A. No. 01 of 2019. There is delay of about 163 days in filing the present L.P.A. No. 340 of 2019.

2. For the reasons stated in the application read with affidavit, delay of about 163 days is condoned.

3. Accordingly, I.A. No. 01 of 2019 stands allowed.



4. On 13.05.2024, we have passed the following order:-

“The present LPA is not supported by material information so as to assail the order of learned Single Judge. Very vaguely stated that respondents are not entitled to regularisation. Unless and until, service particulars of the respondents are placed on record, relevant policy decision of the State Government for regularisation of ad hoc employees/daily wager/appointed on contract. In the event of non-fulfilling the relevant criteria in the policy decision on behalf of the respondents in that event only one can draw inference that they are not entitled to regularisation. Even assuming that there are certain rules were framed in the year 2006 insofar as governing certain post for which respondents are required to be absorbed or regularisation, in that event, the concerned authority was required to appreciate this Court to the extent that before 2006 Rules were introduced whether respondents were fulfilling the relevant criteria for the purpose of regularisation or not? These are all the relevant material which are required to be taken note for the purpose of deciding the fate of Respondent Nos. 1 and 2, in the absence of these materials, the present LPA cannot be entertained.

2. However, in order to to give one opportunity to the appellant-State, re-list this matter on 01.07.2024 to file materials, if any, failing which the present LPA would be dismissed.”



5. Though, supplementary affidavit has been filed on behalf of respondent no. 3 to 6, alongwith Annexure - A and B. However, relevant material information sought by this Court in the order dated 13.05.2024 has not been placed on record. Be that as it may, Respondent No. 1 and 2 are entitled to regularization against a particular post which is required to be determined without invoking Rules 2006 governing certain post for the reasons that service of Respondent No. 1 and 2 is required to be examined for the purpose of regularization with reference to their entry into service as a daily wager or ad-hoc employee read with the criteria laid down by the Hon'ble Supreme Court in the case of ***Secretary, State of Karnataka and Others vs. Uma Devi*** reported in ***(2006) 4 SCC 1***. In this regard, the concerned respondents are hereby directed to take a decision after due verification of their service record and proceed to pass a detailed speaking order if they are otherwise eligible, they shall be granted retrospectively absorption / regularization against the particular post for which they are eligible. If they are not fulfilling the criteria laid down by the Hon'ble Supreme Court decision cited (supra), in that event, a detailed speaking order shall be passed and communicated to the concerned respondents.



6. To the above effect, the present L.P.A No. 340 of 2015 stands disposed.

7. Pending I.A.'s, if any, stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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