

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.297 of 2020

In
Civil Writ Jurisdiction Case No.20127 of 2014

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1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
 2. The Director Primary Education Government of Bihar, Patna
 3. The deputy Secretary Department of Personnel Administrative, Government of Bihar, Patna
 4. The District Magistrate cum Chairman District Compassionate Appointment Committee, District- Munger
 5. The District Education Officer, District- Munger
 6. The District Programme Officer (Establishment) Munger

... .. Appellants

Versus

1. Rahul Kumar Son of Late Suryakant Paswan R/o Village- Dariyapur, P.s.- Mufsil, District- Munger
2. Nirmal Kumar Pankaj son of Sri Singheshwar Prasad R/o Village- Dilawarpur, P.s.- Kotwali, District- Munger
3. Avinash Kumar Son of Late Rabindra Nath Thakur R/o Village- Malchak, P.s.- Harpur, District- Munger
4. Shailendra Kishor Sharan S/o Sri Nand Kishor Malakar R/o Village- Patam, P.s.- Naya Ramnagar, District- Munger
5. Harish Alli Son of Late Md. Sahimuddin R/o Village- Parham, P.s.- Naray Ramnagar, District- Munger

... .. Respondents

Appearance :

For the Appellants	:	Mr. Rakesh Naryan Singh, Advocate
	:	Mr. Vinay Kumar Mishra, AC to AAG-15
For the Respondents	:	Mr.

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

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

7 06-03-2024 The present Appeal has been filed under Clause 10

of the Patna High Court Rules against order dated 08.08.2018

rendered by learned Single Judge in Civil Writ Jurisdiction Case



No. 20127 of 2014 whereby the learned Single Judge disposed of the petition filed by the present respondents / original petitioners.

2. Heard learned Advocate for the Appellants and learned Advocate for the Respondents-State.

3. Learned Advocate for the appellants-State has mainly submitted that the decision rendered by the Hon'ble Supreme Court in the case of ***Mukesh Kumar & Anr. Vs State of Bihar & Ors. reported in 2017 (5) SCC 383*** would not be applicable to the facts of the present case. It is further submitted that after the Hon'ble Supreme Court has rendered the aforesaid decision in case of *Mukesh & Anr. (supra)* in the year 2019, the Hon'ble Supreme Court has passed an order in the case of ***State of Bihar & Ors. Vs. Dilip Kumar & Anr.*** passed in **Civil Appeal No. 005205 of 2019 (Arising out of SLP (C) No. 33282 of 2016)**. The said decision is in favour of the appellants-State. Learned Advocate, therefore, urged that the impugned order be quashed and set aside as the original petitioners are not entitled to the claim which they have made pursuance to their appointment on compassionate ground.

4. We have considered the submissions canvassed by the learned Advocate appearing for the appellants and perused



the record. It would emerge from the impugned order passed by the learned Single Judge that the learned Single Judge has referred the decision rendered by the Hon'ble Supreme Court in the case of *Mukesh Kumar & Anr. (supra)* and thereafter directed the original respondents / present appellants to pass appropriate order within a stipulated time. The learned Advocate has also observed that the original respondents may consider their own resolution dated 12.01.2018. Thus, from the impugned order passed by the learned Single Judge, it can be said that learned Single Judge has not given any specific direction to the present appellants / original respondents to give the benefits which have been claimed by the original writ petitioners. The only direction was given by the learned Single Judge to decide the case of the petitioners within a stipulated time and thereafter pass appropriate order.

5. We are of the view that when the learned Single Judge has not given specific direction to give certain benefits to the original petitioners, the present appeal itself is misconceived. We are of the view that if the present appellants / original respondents are of the view that the decision rendered by the Hon'ble Supreme Court in the case of *Mukesh Kumar & Anr. (supra)* would not be applicable to the facts of the case of



the petitioners and some another decision is applicable to the facts, it is always open for the appellants herein to pass appropriate order.

6. In view of the aforesaid, we are not inclined to interfere with the impugned order passed by the learned Single Judge.

7. Accordingly, the present LPA stands disposed of.

(Vipul M. Pancholi, J)

(Sunil Dutta Mishra, J)

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