

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.535 of 2021

In
Civil Writ Jurisdiction Case No.13107 of 2021

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1. Pooja Kumari Daughter of Ramanand Choudhary having BPSC Roll No. 206061 (Old Merit Position- 2849 and New Merit Position- 2853), Resident of Village- Bhagkohaliya, P.O.- Forbesganj, P.S.- Forbesganj, District- Araria.
 2. Subodh Kumar son of Shri Mithilesh Prasad having BPSC Roll No. 203732 (Merit Position- 750), Resident of Mohalla- Kaushik Nagar, Police Station- Hilsa, District- Nalanda, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
5. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
6. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
7. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
8. The Principal Secretary, Planning and Development Department, Government of Bihar, Patna.
9. The Bihar Public Service Commission, through its Chairman, Patna.
10. The Secretary, Bihar Public Service Commission, Patna.
11. The Joint Secretary-cum- Controller of Examination, Bihar Public Service Commission, Patna.
12. B.I.T. Sindri through its Principal, Dhanbad Road, Town Sindri, P.S. Sindri, District- Dhanbad (Jharkhand).
13. Vinoba Bhave University, through its Vice Chancellor, Vinoba Bhave University Road, P.S. Hazaribagh, District- Hazaribagh (Jharkhand).
14. Anamika Asana D/o- Ratan Kumar, W/o- Pramod Kumar, R/o- Mai, Post- Mai, P.S. Hilsa, District- Nalanda.
15. Nishu Kumari D/o- Anil Kumar R/o- Makhdumpur, P.O.- Kaliyachak, P.S. Hilsa, District- Nalanda.
16. Vineet Kumar son of Birendra Kumar R/o- Village- Srichandpur, Post- Asthawan, P.S. Asthawan, District- Nalanda.

... .. Respondent/s

with



Letters Patent Appeal No. 510 of 2021
In
Civil Writ Jurisdiction Case No.13107 of 2021

1. The Bihar Public Service Commission through its Chairman, Patna.
2. The Secretary, Bihar Public Service Commission, Patna.
3. The Joint Secretary Cum Controller of Examination, Bihar Public Service Commission, Patna.

... .. Appellant/s

Versus

1. Anamika Asana D/o Ratan Kumar, W/o Pramod Kumar, Resident of Mai, Post-Mai, P.S.-Hilsa, District-Nalanda.
2. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
3. Chief Secretary, Govt. of Bihar, Patna.
4. Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
5. Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
6. Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
7. Principal Secretary, Building Construction Department, Govt. of Bihar, Patna.
8. The Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
9. Principal Secretary, Planning and Development Department, Govt. of Bihar Patna.
10. B.I.T. Sindri through its Dhanbad Road, Town Sindri, P.S.-Sindri, District-Dhanbad (Jharkhand).
11. Vinoba Bhave University through its Vice Chancellor, Vinoba Bhave University Road, P.S.-Hazaribagh, District-Hazaribagh (Jharkhand)
12. Pooja Kumari, D/o (Not Known), R/o (not Known), Roll NO. 206061, Backward Class (Female), Merit Serial 2849, Advertisement No. 02/2017 Published BPSC, Patna.
13. Ankit Ayush S/o Narendra Nath Pandey Resident of Gayatri Nagar, Sudna, P.O. Sudna, P.S Medininagar, District-Palamu, Jharkhand-822101.
14. Chandan Kumar Jha S/o Amar Nath Jha, Resident of Village- Solhani, P.O.- Balha, P.S.- Supaul, District- Supaul, Bihar 852130.
15. Rakesh Kumar Yadav S/o Ram Bilash Yadav, Resident of H.No.-22A, Chhattarpur, P.O.- Udaigarh, Village- Bandudih, P.S.- Chhattarpur, District-Palamu, Jharkhand-822113.

... .. Respondent/s

with
Letters Patent Appeal No. 1070 of 2023
In
Civil Writ Jurisdiction Case No.13107 of 2021



1. Pooja Kumari Daughter of Ramanand Choudhary having BPSC Roll No. 206061, (Old Merit Position-2849 and New Merit Position-2853), Resident of Village-Bhagkohaliya,P.O.-Forbesganj, P.S.-Forbesganj, District-Araria.
2. Subodh Kumar Son of Shri Mithilesh Prasad having BPSC Roll No. 203732 (Merit Position-750), Resident of Mohalla-Kaushik Nagar, Police Station-Hilsa, District-Nalanda, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
2. Chief Secretary, Government of Bihar, Patna.
3. Principal Secretary, Road Construction Department, Government of Bihar, Patna.
4. Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
5. Principal Secretary, Water Resources Department, Government of Bihar, Patna.
6. Principal Secretary, Building Construction Department, Government of Bihar, Patna.
7. Principal Secretary, Rural Works Department, Government of Bihar, Patna.
8. Principal Secretary, Planning and Development Department, Government of Bihar, Patna.
9. The Bihar Public Service Commission through its Chairman, Patna.
10. The Secretary, Bihar Public Service Commission, Patna.
11. The Joint Secretary cum Controller of Examination, Bihar Public Service Commission, Patna.
12. B.I.T. Sindri through its Principal, Dhanbad Road, Town Sindri, P.S. Sindri, District Dhanbad (Jharkhand).
13. Vinoba Bhave University through its Vice Chancellor, Vinoba Bhave University Road, P.S. Hazaribagh, District Hazaribagh (Jharkhand).
14. Anamika Asana Daughter of Ratan Kumar, Wife of Pramod Kumar, Resident of Mai, P.O. Mai, P.S. Hilsa, District Nalanda.

.. ... Respondent/s

with
Letters Patent Appeal No. 1365 of 2023
In
Civil Writ Jurisdiction Case No.13421 of 2021

1. The Bihar Public Service Commission through its Chairman, Patna.
2. The Secretary, Bihar Public Service Commission, Patna.
3. The Joint Secretary cum Controller of Examination, Bihar Public Service Commission, Patna.

... .. Appellant/s

Versus



1. Nishu Kumari D/o Anil Kumar, R/o Makhdumpur, Post - Kaliyachak, P.S. - Hilsa, District - Nalanda.
2. Vineet Kumar, S/o Sri Birendra Kumar, R/o Village - Srichandpur, Post- Asthawan, P.S. - Asthawan, District - Nalanda.
3. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
4. Chief Secretary, Govt. of Bihar, Patna.
5. Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
6. Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
7. Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
8. Principal Secretary, Building Construction Department, Govt. of Bihar, Patna.
9. Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
10. Principal Secretary, Planning and Development Department, Govt. of Bihar, Patna.
11. B.I.T. Sindri (affiliated to Vinoba Bhave University) through its Principal, Dhanbad Road, Town Sindri, P.S. - Sindri, District- Dhanbad (Jharkhand).
12. Ramgovind Institute of Technology (affiliated to Vinoba Bhave University), P.S. - Koderma, District - Koderma (Jharkhand).
13. Vinoba Bhave University through its Vice Chancellor, Vinoba Bhave University Road, P.S. - Hazaribagh, District - Hazaribagh (Jharkhand).
14. Pooja Kumari, D/o (not known), R/o (not known), Roll No. 206061, Backward Class (Female) Merit Serial- 2849, Advertisement No. 02/2017 published by BPSC, Patna.
15. Praveen Kumar, S/o (not known), R/o (not known), Roll No. 210461, Backward Class, Disabled (VI), Merit Serial 2930, Advertisement No. 02/2017 published by BPSC, Patna.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 535 of 2021)

For the Appellant/s : Mr.S.D. Sanjay, Sr. Adv. With
Mr.Rashid Izhar, Adv.
For the Respondent/s : Mr.Lalit Kishore, Sr. Adv.
Mr.Sanjay Pandey, Adv
Mr.Nishant Kumar Jha, Adv.
Mr.Suman Kumar Jha, AC to AAG 3

(In Letters Patent Appeal No. 510 of 2021)

For the Appellant/s : Mr.Lalit Kishore, Sr. Adv.
Mr.Sanjay Pandey, Adv
Mr.Nishant Kumar Jha, Adv.
For the Respondent/s : Mr.Anjani Kumar (AAG4)
Mr.Deepak Sahay Jamuar, AC to AAG 4
Mr.Utkarsh Bhushan, Adv.
Mr.Pranav Kumar, Adv.
Ms.Shrishti Singh, Adv.
Mr.Ranjeet Kumar, Adv.
Mr.Shikhar Mani, Adv.



Mr.Rishabh Gupta, Adv.
Ms.Lakshmi Kumari. Adv.
Mr.Rajnish Prakash, Adv.
(In Letters Patent Appeal No. 1070 of 2023)
For the Appellant/s : Mr.S.D. Sanjay, Sr. Adv. With
Mr.Rashid Izhar, Adv.
For the Respondent/s : Mr.Anjani Kumar (AAG4)
Mr.Deepak Sahay Jamuar, AC to AAG 4
Mr.Utkarsh Bhushan, Adv.
Mr.Harsh Singh, Adv.
(In Letters Patent Appeal No. 1365 of 2023)
For the Appellant/s : Mr.Lalit Kishore, Sr. Adv.
Mr.Sanjay Pandey, Adv.
Mr.Nishant Kumar Jha, Adv.
For the Respondent/s : Mr.Suman Kumar Jha, AC to AAG 3
Mr.Pranav Kumar, Adv.
Ms.Shrishti Singh, Adv.
Mr.Harsh Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 31-08-2024

Re : L.P.A. No. 535 of 2021 &
L.P.A. No. 1070 of 2023

In these L.P.As, the appellants have assailed the order of the learned Single Judge dated 16.08.2021 passed in C.W.J.C. No. 13107 of 2021 and C.W.J.C. No. 13421 of 2021.

2. The appellants and contesting respondents are candidates for recruitment to the post of Assistant Engineer (Civil Engineering) pursuant to the Advertisement No. 02/2017 issued on 03.03.2017 read with cut off date as 12.04.2017. Further, a corrigendum has been issued to the Advertisement No. 02/2017 insofar as increasing the number of posts to be filled up while re-assigning the cut off date as 06.12.2017.



Thereafter, one more corrigendum was issued on 26.07.2018 insofar as increasing the number of posts from 1237 to 1284. The appellants were successful candidates for the post of Assistant Engineer. Feeling aggrieved by the process of selection and declaring that petitioners, Anamika Asana, Nishu Kumari and Vineet Kumar restored remedy under Article 226 of the Constitution of India in filing C.W.J.C. No. 13107 of 2021 and C.W.J.C. No. 13421 of 2021. All the three petitioners' petition was allowed in their favour. Resultantly, the present L.P.As have been filed.

3. The core issue is whether respondents Anamika Asana, Nishu Kumari and Vineet Kumar fulfilled the requisite qualification and other criteria notified in the advertisement for the post of Assistant Engineers (Civil) or not? The learned Single Judge without issuing notice to the appellants proceeded to allow the petition of the contesting respondents and it is not disputed by the respective counsels for the parties who are appearing in the present L.P.As.

4. The learned Single Judge heard C.W.J.C. No. 13107 of 2021 and decided on 16.08.2021 during the Covid – 19 pandemic, without hearing the contesting Respondents – Pooja Kumari (Appellant) and Praveen Kumar and proceeded to



pass orders / direction in Para 21 to 24. While implementing the aforesaid directions, Respondents herein and who were petitioners – Anamika Asana, Nishu Kumari and Vineet Kumar were appointed, whereas rights of the Appellants – Pooja Kumari and other selected candidates have been affected and who were not heard by the learned Single Judge in the above C.W.J.C.

5. It is a basic principle of justice that no adverse orders should be passed against a party without hearing institution / person. This is the fundamental principle of natural justice and it is basic canon of jurisprudence. In seven Judges Constitution Bench of Supreme Court, ***A.R. Antulay Vs R.S. Nayak & Anr.*** reported in ***(1988) 2 SCC 602***, it has been observed in Paragraph 55 there of :

“So also the violation of Principle of natural justice renders the act a nullity”.

Similarly, in the case of ***Daxaben Vs The State of Gujarat*** decided on 29.07.2022 reported in ***(2022) 16 SCC 117*** in Para 22 it is held as under:

“22. The High Court erred in declining the prayer of the appellant for recalling its order dated 20-10-2020 [Karni Singh Bhavarsha Bargujar v. State of Gujarat, 2020 SCC OnLine Guj 3453] ,



passed without hearing the wife of the deceased only because the original informant-complainant, a cousin brother and an employee of the deceased had been heard. Hearing a cousin-cum-employee of the deceased cannot and does not dispense with the requirement to give the wife of the deceased a hearing. The wife of the deceased would have greater interest than cousins and employees in prosecuting accused persons charged with the offence of abetting the suicide of her husband.”

6. On the above analysis of the matter, the order of the learned Single Judge dated 16.08.2021 passed in C.W.J.C. No. 13107 of 2021 and C.W.J.C. No. 13421 of 2021 stands set aside and C.W.J.C.s are restored on the file to decide afresh after due hearing of all the respective parties in C.W.J.C. No. 13107 of 2021 and C.W.J.C. No. 13421 of 2021.

7. Matters are relating to selection and appointment to the post of Assistant Engineer. There may be heart-burning among youthful litigants, therefore, learned Single Judge is requested to take up this matter on priority.

8. L.P.A No. 535 of 2021 stands allowed.

**Re : L.P.A. No. 510 of 2021 &
L.P.A. No. 1365 of 2023**

9. Today, learned counsel Mr. Harsh Singh accepts notice for contesting respondents in L.P.A. No. 510 of 2021 and L.P.A. No. 1365 of 2023. He has no objection that the present



L.P.As may also be disposed of in light of the order passed in L.P.A. No. 535 of 2021 and L.P.A. No. 1070 of 2023.

10. Accordingly, L.P.A. No. 510 of 2021 and L.P.A. No. 1365 of 2023 stand disposed of in terms of the order passed in L.P.A. No. 535 of 2021 and L.P.A. No. 1070 of 2023, while restoring respective C.W.J.C.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

mcv/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	10.09.2024
Transmission Date	

