

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.436 of 2022

In

Civil Writ Jurisdiction Case No.912 of 2007

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1. Shambhu Kamti S/o Bishwanath Kamti, R/o Village- Dumaria, Police Station -Kishanganj, District- Kishanganj.
 2. Rajesh Paswan S/o Sidheshwar Paswan, R/o At-Ruidhasa, P.O. and Police Station -Kishanganj, District- Kishanganj.
 3. Binod Kumar Kamti S/o Lallu Kamti, R/o Village-Rollbag (Khagra), Kishanganj, Police Station- Kishanganj, District -Kishanganj.
 4. Mahesh Prasad Thakur S/o Late Bhagwat Prasad Thakur, At Rallabagh, Police Station - Kishanganj, District- Kishanganj.
 5. Kumari Meera Karn W/o Shri Ravindra Lal Karn, R/o Village Betauna, Police Station-Benipatti, District - Madhubani.
 6. Ganesh Prasad Sah S/o Shri Dhanlal Sah, R/o Village-Teli Basti Road, Police Station - Kishanganj, District- Kishanganj.
 7. Md. Tarique Hussain S/o Md. Hamid Hussain, R/o Mohalla 94 Vivekanand Kalatekas, near noorul mohiudipur, Police Station and District- Kishanganj.
 8. Shrawan Kumar Bantar S/o Shri Pulkit Bantar, R/o Mohalla Dharmganj, Majhiya Road, Ward No. 28, Police Station and District - Kishanganj.
 9. Mahfooz Alam S/o Alimuddin, R/o Mohalla-Line Masjid Chowk, Ward No. 04 Police Station Kishanganj, District- Kishanganj.
 10. Prem Kumar Singh S/o Bhumeswar Prasad Singh, R/o Village Dengapar, Po-Singhia, Police Station - Kishanganj, District- Kishanganj.
 11. Lovindra Prasad Thakur @ Lobindra Prasad Thakur S/o Late Ratilal Thakur, R/o Village-Fulwari, P.O. -Alta Hat, Police Station - Kochadhaman, District- Kishanganj.
 12. Devendra Chauhan S/o Balo Chauhan, R/o Mohalla- Dumaria, Police Station- Kishanganj, District- Kishanganj.
 13. Bhonu Das S/o Dhaneshwar Das, R/o Village-Dumaria, Police Station - Kishanganj, District- Kishanganj.
 14. Deo Narayan Ram S/o Shri Jageshwar Ram, R/o Village and P.O. -Alta Hat, Police Station-Kishanganj, District- Kishanganj.
 15. Babita Kumari W/o Sri Kamlesh Kumar Singh, Resident of Mohall- New Colony Dharamganj (Near Sardar Gopal School) Ward No. 11 P.S. - Kishanganj, Distt.- Kishanganj.
 16. Santosh Kumar Thakur S/o Sri Nirsan Thakur, resident of Village- Khagra Halim Chowk Aam Bagan, P.S. - Kishanganj, Distt-Kishanganj.
 17. Satyendra Kumar Singh S/o Sri Dina Nath Singh, resident of village dumaria, Ward No. 30, Near Kali Mandir, P.O. and P.S. and District- Kishanganj.
 18. Raj Kishore Thakur Son of Jogeshwar Thakur, resident of village Khagra Chowk, P.S. - Kishanganj, Distt-Kishanganj.



19. Ganesh Mandal son of Sri Mahendra Mandal, resident of village - Dahi Bhat, P.O. Terhagachh, P.S.- Terhagachh, Distt- Kishanganj.
20. Pankaj Kumar Ram son of Sri Birendra Bahadur, resident of village - Kajla Mani Ward No. 2, P.S.- Kishanganj, Distt- Kishanganj.
21. Anjana Kumari Saha D/o Sri Thakur Pd. Saha, resident of village - Mahavir Marg, P.S. - Kishanganj, Distt-Kishanganj.
22. Lakshmi Devi @ Laxmi Devi W/o Sri Ashok Kumar, resident of Mohalla - Roll Bagh, P.O. and P.S. -Kishanganj, Distt- Kishanganj.
23. Manoj Kumar son of Sri Kanhaiya Prasad, resident of at - Kajlamani, P.S. - Kishanganj, Distt-Kishanganj.
24. Dharmendra Kumar son of Sri Pramod Kumar Mandal, resident of village - Ward No. 23 House no. 40, new mission road rattan goswami k piche P.O. and P.S. and Distt- Kishanganj.
25. Md. Zubair Alam son of late Habibur Rehman, resident of village - Puras, P.O. Sontha, P.S. Kochadhaman, Distt- Kishanganj.
26. Lovely Das @ Lavil Das D/o Late Rasranjan Das, resident of village - Dumaria Ward No. 30, P.S. - Kishanganj, Distt- Kishanganj.
27. Rasik Lal Marandi S/o Sri Charan Marandi, resident of village- Hugur Nagar, P.O. Moletola, P.S. Pirpainti, Distt- Bhagalpur.
28. Sunil Kumar S/o Late Satya Narain Roy Satyanarayan Ray, Village- Ward No. 11 Block Campus Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
29. Kumari Kaushalya D/o Sri Mahendra Mandal, W/o Deveshwar Prasad Das, resident of village - Benugarh, P.O. Matiyari, P.S. and Distt- Kishanganj.
30. Ramesh Kumar Ram S/o Sri Birendra Bahadur, resident of village - Kajlamari Road Ward No. 2 P.S. and Distt- Kishanganj.
31. Shatrughan Thakur S/o Sri Deo Narayan Thakur, resident of village- Dinazpur Road, Ward No. 11, P.S, and Distt- Kishanganj.
32. Kumari Sushila D/o Sri Mahendra Mandal, W/o Ramdev Mandal, resident of village- Dahibhat P.O. and P.S.- Terhagarh, Distt- Kishanganj.
33. Rajesh Prasad Paswan S/o Sri Brij Lal Paswan @ Wrijilal Paswan, resident of village - Railway Colony, P.S. and Distt- Kishanganj.
34. Mina Devi W/o Hazari Prasad, resident of village - Dumaria, P.S. and Distt- Kishanganj.
35. Jyoti Kumari W/o Rajiv Kumar Ranjan, R/o Mohalla- Dumaria Kali Mandir, P.S. - and Distt-Kishanganj.
36. Rakhi Goswami C/o Chandan Goswami, resident of village - Ruidhasa Kalibari Chowk, P.S. and Distt- Kishanganj.
37. Chhabi Das W/o Birendra Kumar Das, resident of village -Ward No. 30, Roll Bagh Opposite Glass Factory, P.S. and Distt- Kishanganj.
38. Pravin Kumar Thakur S/o Sri Jagarnath Thakur, resident of Loharpatti Road, P.S. and Distt- Kishanganj.
39. Umesh Prasad Saha S/o Ganga Prasad Saha, resident of Mohalla Dharamganj, P.O. and P.S. and Distt- Kishanganj.



40. Dilip Kumar Goswami S/o Late Andharulal Goswami, resident of village - Dharamganj Kishanganj, Ward No. 11 Near Sarad Gopal Singh School, P.O. and P.S. and Distt- Kishanganj.
41. Ramesh Prasad Rai S/o Sri Bachchalal Rai, resident of village - Parlabari, P.O. Raipur, P.S. and Distt- Kishanganj.
42. Md. Tanveer Alam S/o Md. Ainul Haqur, R/o Mohalla Halim Chawk Ward No. 22, Nana Nagar Distt- Kishanganj.
43. Md. Quasim son of Md. Imam Ali, resident of Fulwari, P.O.- Terhagachh, Police Station - Terhagachh, District- Kishanganj.
44. Shatrughan Thakur son of Late Mukhtar Thakur, resident of village - Dumaria, Police Station - Kishanganj, District- Kishanganj.
45. Ram Narayan Ram son of Shri Nageshwar Ram, resident of village - Alta Hat, P.O. - Pothia, Police Station - Pothia, District- Kishanganj.
46. Shailendra Kumar Singh son of Shri Lobindra Prasad Singh, resident of village- Bagalbari, P.O. -Bagalbari, Police Station - Kochadhaman District- Kishanganj.
47. Barnabas Marandi son of Mohan Marandi, resident of At- Naya Simldangi, Police Station -Kishanganj, District- Kishanganj.
48. Ranvijay Kumar son of Ram Pravesh Singh, resident of At -Kochhansa, P.O.- Karpi, Police Station - Karpi, District- Jehanabad.
49. Sunil Kumar Hembrum son of Late Mohan Lal Hembrum, resident of At - Kushmarahi, P.O. and P.S. - Kushmarahi, District- Purnia.
50. Lakshman Kumar Roy son of Asarul Roy, resident of At - Mauzabari, P.S. - Patkoi, District- Kishanganj.
51. Shree Lal Baitha son of Sahat Lal Baitha, resident of At- Rupani Hat, Police Station - Kishanganj, District- Kishanganj.
52. Gopi Das son of Late Mahavir Prasad Das, resident of at- Bahadurganj, More Khagra, Police Station - Kishanganj, District - Kishanganj.
53. Shivchandra Ram son of Late Visheshwar Ram, resident of village - Alta Hat, Police Station - Kochadhaman, District- Kishanganj.
54. Saroj Kumar Yadav son of Kamal Prasad Yadav, resident of village -Majgama Angarh Hat, Sontha Kochadhaman, P.S. - Kochadhaman, District- Kishanganj.
55. Md. Alam son of Lal Mohammad, ward No. 23, Ruidhasa Khanka Road, Rampur, P.S.- Kishanganj, District- Kishanganj.
56. Kumari Kiran Kerketta wife of Girwar Minj, resident of village - Jamauti Kanjia, Garhwa, P.S. -Garhwa, District- Garhwa, Jharkhand.
57. Bhawesh Kumar Singh son of Dharam Lal Singh, resident of village - Makhan Pokhar, ward no. 07, Panchayat - Mirzapur Pokhar, P.O. - Taiyabpur, P.S. - Taiyabpur, District- Kishanganj.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Personnel and



Administrative Reforms Department, Government of Bihar, Patna.

2. The District Magistrate, Kishanganj.
3. The District Establishment Committee through its Chairman-cum-District Magistrate, Kishanganj.
4. The Establishment Deputy Collector, Kishanganj.
5. Damodar Karmkar, son of Hari Narayan Karmkar, resident of Village - Tappu Hat, Police Station - Kishanganj, District- Kishanganj.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Binodanand Mishra, Sr. Advocate
	:	Mr. Pawan Kumar, Advocate
	:	Mr. Gunjan Kumar Jha, Advocate
	:	Mr. Sandeep Kumar, Advocate
For the Resp. Nos. 1 to 4:	:	Mr. Saroj Kumar Sharma, AC to AAG-3
For the Resp. No. 5	:	Mrs. Shashi Priya, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-02-2025

Re:-I.A. No. 02 of 2022

I.A. No. 02 of 2022 has been filed seeking permission to file L.P.A. is allowed for the reasons that the appellants' rights would be affected and they have an opportunity of addressing their grievances before the learned Single Judge in C.W.J.C. No. 912 of 2007 in the light of Co-ordinate Bench decision dated 26.08.2013 passed in L.P.A. No. 1388 of 2011. Respondent - Damodar Karmkar has not complied the Co-ordinate Bench decision and so also the learned Single Judge has ignored the directions of the Co-ordinate Bench.

2. Permission is granted.



3. I.A. No. 02 of 2022 is allowed.

Re:-I.A. No. 01 of 2022

4. Heard I.A. No. 01 of 2022. There is delay of about 2742 days. The reasons for condonation of delay in filing the L.P.A. No. 436 of 2022 is that they have not been arrayed as necessary and proper party in C.W.J.C. No. 912 of 2007. That apart, respondent - Damodar Karmkar has not complied the order. In this regard, appellants have stated in para-14 of the I.A. No. 01 of 2022 which reads as under:-

“That the appellants have come to know from a letter of the authority dated 11.07.2022 received by the appellants it transpired that there was a proceeding of contempt (MJC No. 2126 of 2017) wherein an interim order was passed on 28.06.2022 and the authority had was making an enquiry whether the appellants had gone in appeal or in court.”

5. In the light of the aforementioned reasoning, sufficient cause has been shown so as to condone the delay of about 2742 days. Hence, the delay of about 2742 days stands condoned. Accordingly, I.A. No. 01 of 2022 is allowed.

Re:-L.P.A. No. 436 of 2022

6. The present L.P.A. is arising out of process of recruitment to the post of Class-IV employee in the Kishanganj District. This is second round litigation in L.P.A. proceedings,



earlier L.P.A. No. 1388 of 2011 was filed arising out of C.W.J.C. No. 912 of 2007 and connected matter which was disposed of on 26.08.2013. It is a short order which reads as under:-

“These four Appeals preferred under Clause 10 of the Letters Patent arise from the judgment and order dated 9th August 2011 passed by the learned single Judge in CWJC No. 912 of 2007.

The appellants are the persons who are appointed in Class-IV service in the Government offices under the District Magistrate, Kishanganj.

The Appeals are allowed. Impugned judgment and order dated 9th August 2011 passed in CWJC No. 912 of 2007 is set aside on the ground that the said judgment has been passed ex-parte against the appellants. CWJC No. 912 of 2007 is revived and remitted to the learned single Judge according to roster.

The writ petition will be heard and decided by the learned single Judge on merits after the writ petitioners implead all the affected persons as party respondents.

Interlocutory Applications stand disposed of.”

7. After restoration of C.W.J.C. No. 912 of 2007, learned Single Judge proceeded to pass an order on 22.1.2015 with following observation:-

“It is made clear that if the Collector, Kishanganj proceeds to consider the matter, no order prejudicial to the interest of the other side would be passed, without providing them opportunity of hearing.

With the aforesaid observation, the writ petition stands disposed of.”



8. Co-ordinate Bench decision dated 26.08.2013 is binding on the writ petitioner - Damodar Karmkar and so also on the learned Single Judge who has passed the order on 22.01.2015. Damodar Karmkar has not filed any application to modify the order dated 26.08.2013 of the Co-ordinate Bench passed in L.P.A. No. 1388 of 2011 to the extent of impleadment of such of those persons whose rights are likely to be affected. The learned Single Judge has not appreciated Co-ordinate Bench decision in which there is a specific direction to the appellant therein to implead such of those persons whose rights are likely to be affected in the event of C.W.J.C. 912 of 2007 is allowed. Despite these factual aspects of the matter, the learned Single Judge has proceeded to sidetrack the non-impleadment of such of those persons whose rights are affected and proceeded to direct the Collector, Kishanganj to consider the petitioner's grievance. No doubt, learned Single Judge has observed that no order prejudicial to the interest of the other side would be passed, without providing them opportunity of hearing. At the same time, such opportunity was required to be provided in C.W.J.C. No. 912 of 2007 in the light of Co-ordinate Bench decision dated 26.08.2013 passed in L.P.A. No. 1388 of 2011. Thus, the learned Single Judge has committed error insofar as



non-compliance to order dated 26.08.2013 by the petitioner - Damodar Karmkar. Accordingly, the appellants have made out a case so as to interfere with the learned Single Judge order dated 21.02.2015 passed in C.W.J.C. No. 912 of 2007. Hence, the order dated 21.02.2015 passed in C.W.J.C. No. 912 of 2007 is set aside. Once again C.W.J.C. No. 912 of 2007 stands restored.

9. Respondent- Damodar Karmkar is hereby directed to comply the order dated 26.08.2013 passed in L.P.A. No. 1388 of 2011 before C.W.J.C. No. 912 of 2007 is taken up for final disposal.

10. Accordingly, L.P.A. No. 436 of 2022 stands allowed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

utkarsh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.02.2025
Transmission Date	N/A

