

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.448 of 2022

In
Civil Writ Jurisdiction Case No.440 of 2018

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Daya Nand Tiwary S/o Shri Sachidanand Tiwary, R/o Muhalla Khurmabad
Siwan Lalit Bus Stand, P.S. Muffasil Siwan, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary Irrigation Department Government of Bihar, New Secretariat, Patna.
2. The Secretary Irrigation Department Government of Bihar, New Secretariat, Patna.
3. The Collector, Siwan.
4. The District Programme Officer (Sav Siksha Abhiyan) Siwan.
5. The District Education Officer, Siwan.
6. The Superintending Engineer, Saran Canal Division, Siwan.
7. The Executive Engineer, Saran Canal Division, Siwan.
8. The Circle Officer Nautan, District- Siwan.
9. The Principal, upgraded middle School Chitmath Tiwary tola, Banka More, P.S. Nautan, District- Siwan.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Chandra Kant
For the Respondent/s : Mr.Anjani Kumar (Aag 4)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

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

7 20-08-2025 On 05.08.2025, we have passed the following order:-

“Registry has to furnish explanation as to how CWJC No. 440 of 2018 which was pending consideration before the Division Bench up to 02.11.2018 and thereafter it has been abruptly listed before the learned Single Judge in the absence of judicial order of the Division Bench.

2. List this matter on 19.08.2025.”



2. Joint Registrar List in his communication dated 18.08.2025 *vide* Flag Z read with X he has stated that it was a prevalent practice as and when the Constitution of Bench is changed cases are listed accordingly. Constitution of Bench is on administrative side when Division Bench judicial order is in vogue. It is not appropriate on the part of the Registry to follow the Constitution Bench formulated under the administrative side. Formal judicial order of the Division Bench is warranted for the purpose of listing before the concerned learned Single Bench with reference to re-arrangement of Constitution of Bench. From here afterwards, Registry is hereby directed to take note of the same and list before the concerned Division Bench with a request to transfer the matter to the concerned learned Single Bench depending upon the Constitution of Bench on administrative side.

3. Appellant has assailed the order of learned Single Judge dated 12.07.2022 passed in CWJC No. 440 of 2018. Perusal of the relief sought in CWJC No. 440 of 2018, it is in the form of Public Interest Litigation. The main grievance is that removal of certain alleged encroachment made by the respondents over a canal. In such circumstances, matter is required to be decided in the Public Interest Litigation.



Therefore, the appellant has not made out a case so as to interfere with the order dated 12.07.2022 passed in CWJC No. 440 of 2018. Whatever the orders passed by the learned Single Judge would not be a hurdle in filing Public Interest Litigation by the appellant.

4. With the above observations, the present LPA No. 448 of 2022 stands disposed of.

(P. B. Bajanthri, J)

(Shailendra Singh, J)

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