

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1702 of 2019

In

Miscellaneous Jurisdiction Case No.4037 of 2014

1. Uma Shankar Singh Son of Sri Chandrika Singh Resident of Village-Hasuahan, P.O. Govindpur Via Areraj P.S.-Harsiddhi, District-East Champaran
2. Yar Mohammad Mian Son of Late Chand Mohammad Resident of Village -Sarsaula, P.O.-Barwan, P.S.-Lakhaura, District-East Champaran.
3. Mohan Paswan Son of Prasad Paswan Resident of Village-Sapgadha, P.O.-Mishraulia Via Chiraiya, P.S.-Chiraiya, District-East Champaran
4. Vinod KUMar Chaubey Son of Lalita Prasad Chaubey Resident of Village -Sonbarsa, Ward No.-6, P.O.-Sonbarsa, P.S.-Harsiddhi, District-east Champaran.
5. Sukhdeo Ram Son of Late Raghunath Ram Resident of Village-Kritpur, P.O.-Karitpur Mathiyan, P.S.-Harsiddhi, District-East Champaran.
6. Akhilesh Pandey Son of Late Sudama Pandey Resident of Village -Siswan, P.O.-Siswan Mauje, P.S. Paharpur, District-East Champaran.
7. Thakur Mahto Son of Late Narayan Mahto Resident of Village -Dudhi, P.O. and P.S.-Harsiddhi, District-East Champaran.
8. Dhruv Pandey Son of Late Sudama Pandey Resident of Village -Siswan, P.O.-Siswan Mauje, P.S.-Paharpur, District-East Champaran.
9. Harishaaran Prasad Son of Late Raghav Sharan Prasad Resident of Village -Lalvvegiya, P.O.-Mishraulia, P.S.-Chiraiya, District-East Champaran.
10. Yogendra Ram Son of Faguni Ram Resident of Village -Matiyariya, P.O.-Makhua Via Turkauliya, P.S.-Harsiddhi, District-East Champaran
11. Rural Sah Son of Vaidyanath Sah Resident of Village -Sihuiya, P.O.-Surhan, P.S.-Motihari Muffasil, District-East Champaran.
12. Ram Narayan Sharma Son of Late Gaya Sharma Resident of Village and P.O.-Bahlolpur Via Bakarpur Jagah, P.S.-Kalyanpur, District-East Champaran.
13. Yogendra Singh Son of Late Pitamber Singh Resident of Village and P.O.-Ganga Pipad Via, Dhaka, P.S.-Chiraiya, District-East Champaran.
14. Mahendra Prasad Kushwaha, Son of Late Vijay Prasad Kushwaha Resident of Village -Nandpur, P.O.-Madhubani Ghat, P.S. Motihari Muffasil, District-East Champaran.
15. Dhanpat Ram Son of Late Nabab Ram, Resident of Village -Ambariya, P.O.-Ruphara, P.S.-Shikarganj, District-East Champaran.
16. Arvind Kumar Giri Son of Late Upendra Narayan Giri Resident of Village -Bhargawan, P.O.-Bhargawan, P.S.-Sugauli, District-East Champaran.
17. Alakhdeo Yadav Son of Late Kapil Dev Yadav Resident of Village -Jagdishpur Kritpur, P.O.-Kritpur Mathiya, P.S.-Harsiddhi, District-East Champaran.
18. Parshuram Thakur Son of Kedar Thakur Resident of Village -Chatiyan, P.O.-



Chaattiyān, P.S.-Malahi, District-East Champaran.

19. Rajendra Rai Son of Hargovind Rai Resident of Village and P.O.-Chhota Bariyarpur, P.S. Motihari Muffasil, District-East Champaran.
20. Ravindra Chowdhary Son of Late Lakhraj Chowdhary, Resident of Village -Bheriharwan, P.O.-Bhupendih, P.S.-Motihari Muffasil, District-East Champaran.
21. Bachcha Lal Sah Son of Late Chunni Lal Sah Resident of Village -Bawandiya, P.O. Kritpur Mathiya, P.S.-Paharpur, District-East Champaran.
22. Virendra Ram Son of Late Dhanpat Ram Resident of Village -Saptgadha, P.O.-Misrauliya, P.S.-Chiraiya, District-East Champaran.
23. Shobha Ram Son of Late Bhadai Ram Resident of Village -Matiyariya English, P.O.-Makhua, P.S. Harsiddhi Via Turkauliya, District-East Champaran.
24. Shobha Lal Ram Son of Late Bhikhari Ram Resident of Village -Bahurupiya, P.O.-Bahurupiya, P.S. Turkauliya, District-East Champaran.
25. Krishna Prasad Son of Late Banka Prasad Resident of Village -Seorahan Pandey Tola, P.O.-Chaurahiya, P.S.-Harsiddhi, District-East Champaran.
26. Manoj Kumar Singh Son of Sri Kunwar Singh Resident of Village -Naurangiya, P.O.-Gopalpur, P.S.-Madhuwan, District-East Champaran.
27. Vakil Mian Son of late Ahmad Mian Resident of Village -Raghnathpur Bazar, P.O.-Mansingha, P.S.-Sugauli, District-East Champaran.
28. Sohan Ram Son of Late Bagur Ram Resident of Village -Kesariya Garh, P.O.-Kesariya, P.S.-Kesariya, District-East Champaran
29. Veera Ram Son of Late Methura Ram Resident of Village -Keshariya Garh, P.O.-Keshariya, P.S.-Keshariya, District-East Champaran
30. Narad Shukla Son of late Adya Shukla, Resident of Village -Ujjain Lohiyar, P.O.-Gayghat Bazar, P.S.-Harsiddhi, District-East Champaran.
31. Manejar Sah Son of Late Venga Sah Resident of Village -Manguraha, P.O. Manguraha, P.S.-Areraj, District-East Champaran.
32. Pitamber Prasad Son of Sri Prema Prasad Resident of Village and P.O.-Math Lohiyar, P.S.-Harsiddhi District-East Champaran.
33. narendra Kumar Son of Sri Chhote Lal Prasad Resident of Village and P.O.-Gayghat, P.S.-Harsiddhi, District-East Champaran.
34. Punya Dev Ram Son of Ramadhar Ram Resident of Village and P.O.-Math Lohiyar, P.S.-Harsiddhi, District-East Champaran.
35. Mahesh Prasad Chowdhary, Son of Kariman Chowdhary Resident of Village -Barkurba, P.O.-Barkurba, P.S.-Kortan, District-East Champaran.
36. Motilal Prasad Son of Late Ramchandra Sah Resident of Village -Amawan, P.O.-Shiswan, P.S.-Banjariya, District-East Champaran.
37. Ajay Kumar Son of Yogendra Singh Resident of Village -Chainpur Dhaka, P.O.-Dhaka, P.S.-Dhaka, District-East Champaran.
38. Jagnarayan Bhagat Son of Late Janak Bhagat, Resident of Village -Godhwa, P.O.-Pataura, P.S.-Muffasil, District-East Champaran.



39. Shraavan Kumar Son of Radhamohan Prasad Resident of Village -Ghodasahan, P.O.-Ghodasahan, P.S.-Ghodasahan, District-East Champaran.
40. Ravindra Kumar Yadav Son of Hargovind Rai Resident of Village -Bariyarpur, P.O.-Bariyarpur, P.S.-Mufassil, District-East Champaran.
41. Anil KUMar Tiwari Son of Yogendra Tiwari Resident of Village- Purandarpur, P.O.-Sirni Bazar, P.S.-Areraj, District-East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department Govt. of Bihar, Patna
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Selection Committee (Group D) East Champaran through its Chairam-Cum-District Magistrate, East Champaran.
4. The District Magistrate, East Champaran at Motihari.
5. The Deputy Development Commissioner, East Champaran at Motihari
6. The Additional Collector, East Champaran at Motihari
7. The Deputy Collector (Establishment), East Champaran at Motihari
8. The Deputy Collector (Nazarat), East Champaran at Motihari
9. The District Panchayat Raj Officer, East Champaran at Motihari
10. The Deputy Election Officer, East Champaran at Motihari
11. The District Welfare officer, East Champaran at Motihari
12. The District Program Officer, East Champaran at Motihari
13. The District Employment Officer, East Champaran at Motihari
14. The Civil Surgeon Cum-Chief Medical Officer, East Champaran at Motihari
15. The Treasury Officer, East Champaran at Motihari
16. The District Sub-Registry Office, East Champaran at Motihari

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Murari Narain Chaudhary, Advocate
Mr. Vijay Kumar, Advocate

For the Respondent/s : Mr. Prabhat Kumar Verma (AAG 3)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 07-11-2022



Heard Mr. Murari Narain Chaudhary, learned Advocate for the appellants and Mr. Sanjay Kumar Ghosarwe for the State.

The present appeal is against the order dated 04.07.2019, passed by the learned Single Judge in a contempt jurisdiction arising out of CWJC No. 1807 of 2014. The learned Single Judge, while deciding CWJC No. 1807 of 2014 had directed the Collector, East Champaran at Motihari to ensure that the steps initiated by issuing advertisement pursuant to the order of the Commissioner passed in the light of the earlier orders of the High Court be completed and appointments on all available vacancies be made from the panel prepared/revised in the process, positively within six months from the date of receipt/production of a copy of that order.

While giving the afore-noted direction, the learned Single Judge, in the writ petition, also observed that since the advertisement had been published after 2002 for the first time, the respondent/State would consider relaxing the



age of the applicants/writ petitioners, eligible for appointment in accordance with law.

It appears from the averments made in the present appeal as also from the submissions advanced on behalf of the appellants that they were not granted age relaxation and appointments were made from the panel which was prepared later. The appellants thereafter, preferred a contempt petition before this Court *vide* MJC No. 4037 of 2014, in which the only grievance of the appellants was that the process of appointment was carried out after the time-limit given by the learned Single Judge while dealing with the writ petition, in the first instance.

We find from the order passed by the contempt court that no such grievance of not giving age-relaxation was raised by the appellants.

Mr. Chaudhary, learned counsel for the appellants, while defending the filing of the present appeal, has drawn the attention of this Court to the observation made by the Supreme Court in *Midnapore Peoples' Coop. Bank Ltd. Vs.*



Chunilal Nanda (AIR 2006 SC 2190), whereby it has been held that if the High Court, for whatever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was not of a learned Single Judge and there is a provision for intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

It has further been submitted that a Division Bench of this Court based its decision and accepted the appeal against an order passed in contempt in LPA No. 343 of 2013, arising out of an order passed in MJC No. 930 of 2012.

In the afore-noted case [LPA No. 343 of 2013 (supra)], the writ petition had been disposed of by the learned Single Judge wherein there was prayer for regularization on the plea that the person concerned had



worked on daily wages for a particular period and the Court had remanded the matter to the Collector of a particular district for determining vacancy of a particular year and to consider regularization, if vacancy was available and other similarly situated persons were regularized. The Collector did not grant any relief to the writ petitioners therein, necessitating filing of a contempt petition *vide* MJC No. 930 of 2012. In that contempt jurisdiction, the learned Single Judge had issued directions for consideration of regularization as per seniority and not category of vacancy.

Since a totally new issue came up for consideration, in which fresh directions were given in the contempt jurisdiction, the State chose to prefer an intra-court appeal against the aforesaid order passed in contempt jurisdiction, as presumably the orders appeared to have been passed under Article 226 jurisdiction. In this context, the Division Bench of this Court in LPA No. 343 of 2013 (*supra*), relied upon the observation of the Supreme Court in *Midnapore Peoples' Coop. Bank Ltd. Vs. Chunilal Nanda*



(supra) that a party cannot be rendered remediless, if positive directions are issued in the nature of an order under Article 226 of the Constitution of India in a contempt jurisdiction under Article 215 of the Constitution of India.

Thus, maintaining an appeal against an order passed in contempt jurisdiction in that instance was contextual and not for the purposes of by-passing the requirement of an appeal under the Contempt of Courts Act.

The argument of Mr. Chaudhary, therefore, that this appeal is maintainable, is not acceptable to us.

Apart from that, it appears that in the present case, the request of the appellants for consideration of age relaxation to them has been declined, which could have been challenged by the appellants in a fresh writ petition as was held by the contempt court, against which order the appellants have preferred the present appeal.

We endorse the view of the learned contempt court that in case the appellants were aggrieved because of



non-consideration of their claim of age relaxation on account of delayed appointment process, such action was assailable in a writ jurisdiction and not in an appeal against an order passed in contempt jurisdiction.

After having heard the Court dictate the order in open Court and considering it more appropriate, Mr. Chaudhary seeks to withdraw this appeal in order to agitate his cause in an appropriate forum, if so desired.

The appeal stands dismissed as withdrawn.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

krishna/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	10.11.2022
Transmission Date	NA

