

(2017) 01 JH CK 0016
In the Jharkhand High Court
Case No : L.P.A. No. 770 of 2015

Sheo Prasad Gupta

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 12-01-2017

Acts Referred:

Letters Patent Appeal Rules — Clause 10

Citation : (2017) 2 JBCJ 558 : (2017) 2 JLJR 329

Hon'ble Judges : D.N. Patel and Ratnaker Bhengra, JJ.

Bench : Division Bench

Advocate : Mr. Md. Zaid Ahmed, Advocate, for the Appellant; Mr. Himanshu Kr. Mehta, AAG and Mr. Kanchan Kumari, J.C. to A.A.G, for the State

Final Decision : Dismissed

Judgement

D.N. Patel, J. (Oral)—This Letters Patent Appeal has been preferred against the judgment and order delivered by the learned Single Judge in W.P.(S) No. 5334 of 2013 vide order dated 20th November, 2015 whereby, the petition preferred by this appellant was dismissed and hence, the original petitioner has preferred the present Letters Patent Appeal.

2. Having heard counsels for both the sides and looking to the facts and circumstances of the case, it appears that the appointments on the post of Dalpati on and from 24th February, 1997 have been held as illegal by virtue of the order passed by Hon"ble High Court at Patna as stated in the impugned order which is at Annexure 5 dated 5th July, 2012, which was under challenge in the writ petition.

3. It further appears from the facts of the case that this appellant (original petitioner) claims to have been appointed on 20th January, 1997 and he was not confirmed by the Government and hence, a writ petition was preferred by this very appellant being W.P.(S) No.6636 of 2002 which was disposed of by the learned Single Judge vide order dated 12th April, 2012 remanding the matter to

the Director, Panchayati Raj, Jharkhand to take afresh decision.

4. The fresh decision was taken by the Director, Panchayati Raj, Jharkhand which is at Annexure 5 dated 5th July, 2012 which was under challenge in the writ petition and the same order has been held as valid one and hence, the writ petition was dismissed.

5. It appears from the facts of the case that cutoff date is 24th February, 1997 to the effect that all the Dalpatis appointed on and from this date these appointments are illegal appointments because Executive Committee was not functional at all. Now the question arises whether this appellant (original petitioner) was appointed on 20th January, 1997 ?

6. It further appears from the facts of the case that within 15 days as per Jharkhand Gram Raksha Dal Niyamawali, 2001 such type of appointments must have been sent to the Government for confirmation. It appears from the facts of the case that this is back dated letter which has been obtained by this petitioner because within 15 days from his appointment the said appointment was never sent for confirmation to the District Panchayati Raj Officer, but, it was sent on 30th May, 1997 and thus, once the cutoff date is known to everyone which is 24th February, 1997 it appears that the back dated appointment letter must have been obtained and upon cross verification it is found that the same was sent for confirmation on 30th May, 1997 which is in violation of the aforesaid rules and hence, this appellant could not have been confirmed because the Dalpaties appointed during the period for which no Executive Committee was functional. This aspect of the matter has been properly appreciated by the learned Single Judge while dismissing the writ petition and we see no reason to take any other view than what is taken by the learned Single Judge. Whenever such type of cutoff date is known to everyone there are bound to be few manipulations which takes place with back dated letters, but, there are always cross checking points also inbuilt in the law. In the facts of the present case, the so called appointment letter dated 20th January, 1997 which this appellant is claiming to have, but, the same was never sent for confirmation upto 30th May, 1997, whereas, it must have been sent within 15 days if it was correct, genuine and legal appointment.

7. In view of these facts, there is no substance in this Letters Patent Appeal and hence, the same is hereby, dismissed.