

(2001) 04 PAT CK 0017
In the Patna High Court
Case No : C.W.J.C. No. 1233 of 1997

Surendra Prasad Singh and Others	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 19-04-2001

Acts Referred:

Patna Municipal Corporation Act, 1951 — Section 545

Citation : (2001) 3 PLJR 493

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kumar Singh, J

Bench : Division Bench

Advocate : S.C. Surya, for the Appellant; G.P. Roy, for State and Jitendra Singh, for Patna Municipal Corporation, for the Respondent

Judgement

1. The issue in the present petition is the time bound promotion. The employees of the Patna Municipal Corporation seek parity with other State Government employees. At present, the time bound promotion as is being given to other State employees is not being received to the employees of the Corporation. If it is received, it would need . further budgetary expenditure. The Corporation is a superseded Corporation. To give effect to the claim of the employes, draft rules were made and sent by the Corporation to the State Government. If approved, the necessary budgetary expenditure would have been provided and the employees would receive the time bound promotion, a claim, in principle, accepted by the Corporation.
2. Unfortunately, today a statement has been made on behalf of the State Government by Additional Advocate General, No. 3, that the draft rules sent by the Corporation have not been accepted by the State Government but rejected. Let the information be filed on an affidavit by Monday, by the Secretary, Urban Development.
3. Plainly, what has happened is that the issues dragged back and forth between the Corporation, the State Government and the Corporation like a shuttlecock. Orally, it is being indicated to the Court by A.A.G.3 that the State Government

already provides a grant of 40% and a loan of 30% to the Corporation. This is to take care of additional expenditure which is required to meet such increased expenses of the Corporation towards salaries of the employees.

4. One aspect is not to be lost sight of is that the Patna Municipal Corporation is a superseded Corporation and this state of affairs has continued as powers were exercised u/s 545, Chapter 34 of the Patna Municipal Corporation Act, 1951. The Court has reservations whether these provisions can stand in view of the amendment which has taken place to the Constitution of India by Part IX A, the Chapter on "Municipalities". The amendments were brought into the institution of India by the Constitution (73rd) Amendment Act, 1992. To supersede the Patna Municipal Corporation was an Act of the State Government. After the amendments were made to the Constitution of India, the sanction of the law to continue the affairs of the Patna Municipal Corporation without its elected representatives and to run it ad-indefinitum as a superseded Corporation, as a Corporation-sole, is not available to the State of Bihar. There is no escape from this but to make arrangements for municipalities, city corporations and other local self governments institutions so that in chapter and spirit, effect is given to the provisions of the Constitution of India on local self governments for a functional grass root democracy.

5. While at present, the Court is not giving any direction but the State Government is obliged to consider that once the principle is accepted that the employees of the Corporation are entitled to a time bound promotion, it cannot reject the draft rules as were sent so easily as it has been done. The State Government cannot supersede local government, reserve powers of visitation, on an independent local body and ignore areas of discrimination in staff structure and pay.