

(2008) 01 PAT CK 0083
In the Patna High Court
Case No : LPA No. 733 of 2007

The State of Bihar and Others

APPELLANT

Vs

Sri Anand Shekhar

RESPONDENT

Date of Decision : 07-01-2008

Acts Referred:

Citation : (2008) 56 BLJR 693 : (2008) 2 PLJR 126

Hon'ble Judges : J.N. Singh, J;Barin Ghose, J

Bench : Division Bench

Advocate : Sunil Kr. Mandal, SC 15 and Arjun Prasad, JC to SC 15, for the Appellant; Pushkar Nr. Shahi, Nishant Choudhary, Ravi Kumar and Sanjeet Kr. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Barin Ghosh and J.N. Singh, JJ.—The delay in filing the appeal is condoned.

By a letter bearing No. 1445 dated 9th December, 1998, the Director, Secondary Education issued instructions to appointing authorities for initiating steps to put an end the appointments which were said to have been made illegally. In pursuance therewith, the Respondent-Writ Petitioner was issued a Notice dated 12th December, 1998 whereby and under he was called upon to show cause as to why his appointment should not be cancelled for the same had been made in violation of the applicable rules governing the subject appointments. While the Writ Petitioner-Respondent was thus asked to show cause, similarly several others were also asked to show cause. One of them Sri Ravindra Kumar Tiwary in a Writ Petition registered as CWJC No. 5003 of 1999 not only challenged the show cause as was issued to him, he also challenged the decision as was contained in the said letter of the Director, Secondary Education bearing No. 1445 dated 9th December, 1998 and succeeded. By reason thereof, the decision contained in the said letter of the Director, Secondary Education bearing No. 1445 dated 9th December, 1998 stood quashed. The Letters Patent Appeal registered as LPA No. 1512 of 2000 filed against the said order passed in CWJC

No. 5003/1999 was dismissed whereupon the Hon''ble Supreme Court on being approached refused to grant Special Leave to prefer an appeal against the order of the Division Bench dismissing the said Letters Patent Appeal. As a result, the very decision to take steps against the alleged illegal appointments stood obliterated from the records.

2. The case of Ravindra Kumar Tiwary stood concluded by an order of termination of his service. The illegalities pointed out in support of such termination were not accepted as illegalities by this Court. To support termination of the services of the Writ Petitioner-Respondent, same illegalities are being pointed out. Once a Division Bench of this Court has not accepted those as illegalities entailing a valid termination of service, we are afraid we also cannot accept similar allegations as illegalities justifying termination of the services of the Respondent-Writ Petitioner and, accordingly, refuse to interfere with the judgment and order under appeal while dismissing the appeal.