

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9144 OF 2019
(Arising out of SLP(C)No.6491/2018)

The State of Bihar & Ors. ... APPELLANT(S)

VS.

Surendra Prasad & Ors. ... RESPONDENT(S)

O R D E R

It is not disputed that the appointment of the respondent herein - Surendra Prasad, has been found to be illegal in view of the decision rendered by this Court on 17.10.2019 in Civil Appeal No.7879/2019 and other connected matters. We may add that one of the civil appeals, i.e., Civil Appeal No.7890/2019 arising out of SLP(C)No.2042/2014, which related to Respondent No.1- Surendra Prasad. Therefore, the petition filed by the State of Bihar has to be allowed.

Mr. Gaurav Agrawal, learned counsel, prays that though the appointment of Respondent No.1 has been held to be illegal, the amounts, if any paid to the said respondent by way of salary and pension, may not be recovered and the judgment referred to above is silent on this aspect.

Though, the appointment of the respondents in the said judgment had been held to be illegal and this Court has taken a view that since the appointments were illegal, no indulgence can be shown to them, this Court did not deal with the issue as to whether the pay and pension already paid should be recovered or not. It is not disputed that Respondent No.1, like others actually worked. Though, this appointment may have been illegal and they may have worked under the orders of the Court, but the fact is that the work was done by them. Therefore, we feel that though the appeal has to be allowed, the State of Bihar will not be entitled to recover the amount(s) already paid by it to Respondent No.1.

We make it clear that this order has been passed in the peculiar facts and circumstances of the case and it is not to be treated as a precedent in any other case.

The appeal is allowed in the aforesaid terms. Pending application, if any, shall stand disposed of.

.....J.
[DEEPAK GUPTA]

.....J.
[ANURUDDHA BOSE]

New Delhi;
2nd December, 2019.

ITEM NO.53

COURT NO.14

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).6491/2018

(Arising out of impugned final judgment and order dated 10-01-2018 in LPA No.1359/2017 passed by the High Court Of Judicature At Patna)

THE STATE OF BIHAR & ORS.

Petitioner(s)

VERSUS

SURENDERA PRASAD & ORS.

Respondent(s)

Date : 02-12-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Devashish Bharuka, AOR
Mr. Ravi Bharuka, Adv.
Ms. Sarvshree, Adv.
Mr. Justine George, Adv.
Ms. Srishti Agarwal, Adv.
Mr. Sanjiv Goel, Adv.

For Respondent(s) Mr. Gaurav Agrawal, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(Pradeep Kumar)
Branch Officer

(Sarita Purohit)
AR-cum-PS

(Signed order is placed on the file)