

## IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3517 OF 2006

RAJESHWAR DAYAL  
ANT

... APPELLANT

VERSUS

STATE OF BIHAR & ORS.  
DENTS

... RESPONDENTS

WITH

C.A.NO.3519/2006 (THE STATE ELECTION COMMISSIONER, BIHAR & ORS. VS.  
RAJESHWAR DAYAL AND ORS.)

O R D E R

C.A.No.3519/2006

The challenge in this appeal is to the order dated 17.1.2005 passed by the Division Bench of the High Court of Judicature at Patna in L.P.A.No.46 of 2005. This appeal has been filed by the State Election Commissioner, Bihar. It is not disputed that the aforesaid order has been rendered without notice to the State Election Commissioner.

The appellant is aggrieved by a portion of the order which reads :

"In that view of the matter, the Election Commission has no power to engage any person in any capacity. If any person is engaged by the Election Commission contrary to the provision then the entire burden of salary for the said person shall be borne by the concerned

authority of the Commission himself."

We are of the view that in the facts and circumstances raised before the Division Bench of the High Court the aforesaid observation was uncalled for. The

observation as quoted above is accordingly set aside. The question of law is left open.

The appeal is allowed in the above terms.

C.A.No.3517/2006

This appeal is delinked.

.....J.

( H.K. SEMA )

.....J.

( R.V. RAVEENDRAN )

NEW DELHI,

NOVEMBER 02, 2006.

ITEM NO.108

COURT NO.7

SECTION XVI

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3517 OF 2006

RAJESHWAR DAYAL

Appellant (s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

(With office report )

WITH Civil Appeal NO. 3519 of 2006

Date: 02/11/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Appellant(s)

Dr. Kailash Chand,Adv.

In CA 3519/06

Mr. Akhilesh Kumar Pandey, Adv.

Mr. Sudhanshu Saran, Adv.

For Respondent(s)

in CA 3517/06

Mr. Akhilesh Kumar Pandey,Adv.

For State of Bihar

Mr. Nishakant Pandey, Adv.

Mr. Gopal Singh ,Adv

Mr.Gaurav Agrawal ,Adv.

UPON hearing counsel the Court made the following

O R D E R

C.A.No.3519/2006

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The appeal is allowed in terms of the signed order.

C.A.No.3517/2006

This appeal is delinked.

(PAWAN KUMAR)

(ANAND SINGH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)

