

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). 7992-8028 OF 2001

ROHTAS ZILA GRAM RAKSHA DAL SANGH & ORS.

Appellant (s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

Date: 18/07/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE D.K. JAIN

For Appellant(s) Mr. Kameswar Singh, Adv.

Mr. M.A.Chinnasamy,Adv.

For Respondent(s) Mr. Rameshwar Prasad Goyal,Adv.

Mr. Vivek Singh, Adv.

for Mr. Gopal Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeals are dismissed in terms of the signed order.

Master

(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 7992-8028 OF 2001

ROHTAS ZILA GRAM RAKSHA DAL SANGH &amp; ORS.

Appellant (s)

VERSUS

STATE OF BIHAR &amp; ORS.

Respondent(s)

O R D E R

These appeals are filed against the judgment of the Division Bench of the High Court.

The appellants were working as members of the Village Volunteer Force in the State of Bihar

which was known as "Gram Raksha Dal" and the organiser of this force was known as "Dalpati".

The appellants were selected as Dalpatis in the year 1994. After the 73rd Amendment of the

Constitution, Bihar Legislature passed The Bihar Panchayat Raj Act, 1993 (hereinafter referred to

as "the 1993 Act"). In the original Bihar Panchayat Raj Act, 1947 (hereinafter referred to as

"the old Act"), there was no provision for appointment of Dalpatis, but by Bihar Panchayat Raj

(Amendment) Act 14 of 1995 Section 32A was introduced which reads as under:-

"32A. Organisation of Gram Raksha Dal :- For General wat

ch and

ward and for meeting emergent events i.e. fire, breaking of  
an  
embankment or bridge, outbreak of epidemic and to encounter burglary  
or dacoity etc. to perform such duties imposed by the Government from  
time to time and for maintenance of public peace and order  
, a Gram  
the  
Raksha Dal shall be organised under a Dalpati, appointed in  
prescribed manner, for every Gram Panchayat and all able-bodied  
persons of a village between the ages of 18 and 30 years shall be members  
of the said Dal. The Government may make rules for the org  
anisation,  
duty and utilisation of Gram Raksha Dal."

Though Section 32A was added to the 1993 Act, no Rules were  
framed by the

Government for organising such Gram Raksha Dal. It seems that later the Government felt that  
such Village Volunteer Force could not be appointed under the provisions  
of the 1993 Act. The

Government issued a circular on 09.02.1998 wherein the Government took the view that after the  
73rd Amendment of the Constitution, the 1993 Act was introduced on 23.08.1993 which  
repealed

the old Act. Consequently, the Village Volunteer Force Rules, 1949 framed under the old Act had

also been repealed automatically and under such circumstances, no appointment  
under the

provisions of the repealed Rules could be made. Consequently, the services of the appellants  
who

had been working as "Dalpatis" of the Village Volunteer Force were terminated and they ceased  
to be Dalpatis.

to be Dalpatis.

Aggrieved by the same, the appellants preferred writ petitions before the High Court and

the High Court by the impugned order held that there are no provisions in the 1993 Act to appoint

Dalpatis and the Rules had also not been framed and thus the petitioners before the High Court

could not continue as Dalpatis and the writ petitions were dismissed.

Heard the learned counsel for the parties.

The learned counsel for the appellants contended that Section 32A of the 1993 Act

provides that such Village Volunteer Force is to be constituted and, therefore, it is the duty of the

Government to implement that provision. We have noted that no Rules have been framed to

implement the said provision. Of course, there were Rules framed under the earlier statute (the old

Act) but they ceased to have any effect after the commencement of the 1993 Act. In the 1993 Act no

reference has been made to "Gram Raksha Dal" except in Section 32A. The learned counsel has

not pointed out any other provision regarding such Village Volunteer Force.

The learned counsel for the appellants further submitted that had these "Dalpatis"

continued to hold the post, they would have become "Panchayat Sewaks" and that opportunity was

denied to the appellants. Under the 1993 Act there is no provision for appointment of Panchayat

Sewaks and in its place there is Panchayat Secretary who shall be appointed by the State

Government. So, in view of this, the appellants cannot aspire to become Secretary of the Gram

Panchayat.

We also take note of the fact that the appellants had been appointed as the members of

the Village Volunteer Force under the old Act and the age group of persons appointed as such

would have been between 21 to 30 years of age and all these appellants had certainly crossed that

age now. Under Section 32A of the 1993 Act, the appointment of "Dalpati" could be given only to

persons in age group of 18 to 30 years and the appellants are not entitled to be appointed to such

post as they have crossed the upper age limit.

In the result, the appeals have no merit and they are dismissed accordingly. No costs.

.....J.

(K.G. BALAKRISHNAN)

.....J.

(D.K. JAIN)

NEW DELHI,

JULY 18, 2006.