

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15783 of 2014

Sanjay Kumar (Advocate), Patna High Court, Member of Advocate Association,
Place of Seating - Room No.-3, Advocate Association, In front of Library, Son of
Sri Ramchandra Prasad, permanent resident of Village-Madhuaaha Mal, P.O.-
Tetaria, P.S.-Rajeypur, District-West Champaran, State-Bihar.

.... Petitioner

Versus

1. The Union of India through Home Secretary, Govt. of India, New Delhi.
2. The State of Bihar through Principal Secretary, General Administration
Department, Bihar, Patna.
3. The Registrar General, Patna High Court, Patna.
4. Joint Secretary-Cum-Director, Cabinet Secretariat (Rajyabhasha) Department,
Bihar, Patna.

.... Respondents

Appearance :

For the Petitioner : Mr. Indradeo Prasad, Advocate
For the State : Mr. Alok Kumar Rahi, (A.C. to A.A.G.-2)
For the High Court : Mr. Mrigank Mauli, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

C.A.V. JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

Date: 08-09-2015

The petitioner herein has filed the present writ
application, under Article 226 of the Constitution of India, in the

form of a public interest litigation, seeking a direction to dispose of his representation, dated 10.10.2012, submitted by him to the Registrar General, Patna High Court. The petitioner is an Advocate practising in this Court.

2. Earlier, the petitioner had filed a writ application before this Court, bearing C.W.J.C. No. 15020 of 2012, seeking a direction that the question papers of the competitive examination, held for appointment to Higher Judicial Service in the State of Bihar, should be printed in Hindi also. The writ application was permitted to be withdrawn by an order of this Court, dated 20.09.2012, with a liberty to the petitioner to file a representation before the concerned functionaries for redressal of his grievance. It was indicated therein that if any representation was filed by the petitioner, the same shall be considered and disposed of in accordance with law. The petitioner appears to have filed his representation, accordingly, on 10.10.2012. He, thereafter, preferred a contempt application, bearing M.J.C. No. 639 of 2013, alleging non-compliance of this Court's order, dated 20.09.2012, as regards consideration of his representation. The contempt application came to be rejected by an order, dated 25.07.2014. On 10.09.2014, the petitioner filed the present writ

application, seeking direction to dispose of his representation, dated 10.10.2012, in compliance of this Court's order, dated 20.09.2012, passed in C.W.J.C. No. 15020 of 2012.

3. We have heard Mr. Indradeo Prasad, learned counsel, appearing on behalf of the petitioner, Mr. Alok Kumar Rahi, learned Assistant Counsel to learned Additional Advocate General 2, appearing on behalf of the State and Mr. Mrigank Mauli, learned counsel, appearing on behalf of the High Court.

4. Learned counsel, appearing on behalf of the petitioner, has submitted, referring to Article 343 of the Constitution of India, that the official language of the Union has been declared to be Hindi in Devnagri Lipi (Script) and the State Government of Bihar has created a separate Rajya Bhasha Department in order to encourage use of Hindi language. According to him, in order to encourage Hindi knowing people to participate in the competitive examinations, held for appointment to the post of Superior Judicial Service in the State of Bihar, the question papers should be directed to be printed in Hindi.

5. We do not find any merit in this writ application for three reasons. Firstly, this public interest litigation filed on



behalf of the petitioner, namely, Sanjay Kumar, cannot be maintained, it being a service matter. It has been held repeatedly by Supreme Court that no public interest litigation shall, ordinarily, be entertained in service matters. Secondly, as has been noted above, alleging non-disposal of the petitioner's representation in compliance of the order of this Court, the petitioner had filed a contempt petition, bearing M.J.C. No. 639 of 2013, which was dismissed by order, dated 25.07.2014. As against the order, dated 25.07.2015, the petitioner did not take any further legal recourse and the order, thus, attained finality. The petitioner has, again, filed the present writ application seeking a direction for disposal of the said representation, wherein he has sought for the similar direction, which cannot be entertained. Thirdly, the petitioner has failed to produce any constitutional or any other legal provision requiring this Court to issue a direction to the respondents to print the question papers of Superior Judicial Service Examination, in the State of Bihar, in Hindi too.

6. No direction can be issued by the High Court in exercise of its power under Article 226 of the Constitution of India unless it is shown to the Court that there has been any

violation of constitutional or legal right of a person or that the State, within the meaning of Article 12 of the Constitution of India, has failed to do something, which the State was obliged to do under any constitutional or legal provision.

7. Before we conclude, we must take note of the provision contained in Article 348 of the Constitution of India, which reads as follows:-

“348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.—

(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—

(a) all proceedings in the Supreme Court and in every High Court,

(b) the authoritative texts—

(i) of all Bills to be introduced or amendments thereto to be moved in either House of parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the

*Legislature of a State,
Shall be in the English language.*

(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State :

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or any order, rule, regulation or bye-laws referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.”

8. Article 348 of the Constitution of India mandates that all proceedings, in the Supreme Court and in every High Court; and authoritative texts of all Bills or Amendments thereto to be



moved in either House of Parliament; Acts passed by the Parliament; all orders, rules, regulations and bye-laws issued under the Constitution of India or under any law made by the Parliament; shall be in English language. The said provisions also mandate that all authoritative texts of Ordinances, promulgated by the President, shall be in the English language. The authoritative texts of the Bills/Acts to be introduced and passed by the Legislature of a State are also required to be in English language. Article 348 (3), however, enables the States to authorise use of Hindi language, in introduction of Bills or passing of Acts by the Legislature of the State or any Ordinances promulgated by the Governor of the State or in any order, rule, regulation and bye-laws. The said provisions, however, makes it mandatory that there must be translation of such bills/acts/order/rule/regulation/bye-laws in the English language, published under the authority of the Governor of the State, in the Official Gazette of that State, which shall be deemed to be an authoritative text in the English language under Article 348 of the Constitution of India. Article 348 (2) of the Constitution of India authorises the Governor of a State, with the previous consent of the President, the use of Hindi language or any other



language for official purposes of the State, in proceedings in the High court. Proviso to Article 348 (2), at the same time, makes it clear that provisions under Article 348 (2) of the Constitution of India for use of Hindi language shall not apply to any judgment, decree or order passed or made by such High Court.

9. Faced with a situation, where the authoritative texts of the Acts passed by the Parliament and the Legislature of a State are required to be in English language under provisions of the Constitution of India, the proceedings of the Supreme Court and the High Courts are required to be in the English language, we do not find any reasonable ground for issuance of any writ in the nature of writ of a *mandamus* to the High Court on its administrative side to the effect that the question papers of the competitive examination, held for the appointment to the posts of Superior Judicial Service, in the State of Bihar, should be printed in Hindi also. The use of English language in the question papers, for selection to the post of Superior Judicial Service, is a policy matter of the High Court on its administrative side, which cannot be said to be irrational and arbitrary, in background of constitutional provisions, as noted above, warranting interference in exercise of power of judicial

review under Article 226 of the Constitution of India.

10. For the reasons recorded hereinabove, we do not find any merit in this application. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

I. A. Ansari, ACJ. : I agree

(I. A. Ansari, ACJ.)

Praveen-II/A.F.R.

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