

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20594 of 2014

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Anil Kumar son of Ram Sakal Ray, Secretary, Ford Foundation, resident of village
- Gidda Phulwaria, P.O. Suhasigardh, Via - Minapur, P.S. + District - Sitamarhi
..... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna
2. The Secretary, Bihar Bidhan Sabha State of Bihar, Patna
3. The Bihar State Election Commission, Patna

. Respondents

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Pandey

For the Respondent/s : Dr. Md. Raisul Haque, SC 4

Mr. Binay Kumar

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 30-01-2015

The petitioner claims to be a social worker. He has filed this writ petition with a prayer to quash and set aside the Bihar Legislature (Members' Salaries, Allowances and Pension) Act, 2006 (hereinafter referred to as 'the Act'). The background of that Act, in brief is, that the Bihar State Legislature has already enacted the Bihar Legislature (Members' Salaries, Allowances and Pension) Act, 1960 which provided for payment of pension to the legislators. A typical situation arose when elections to the Assembly were held in the year 2006. Till November neither the Assembly was met nor the Government was formed. On account of prolonged stalemate, the Assembly was dissolved and fresh elections were held.

The question as to whether the persons who were elected as M.L.As., in the elections held in 2006 are entitled to be paid

pension has arisen. With a view to resolve that controversy, the Act referred to above, was enacted.

The petitioner contends that it is only on being administered oath, that an M.L.A. would become entitled to be paid pension and not when such oath is not administered.

Heard Sri Akhileshwar Pandey, learned counsel for the petitioner and Sri Raisul Haque, learned counsel for the State.

In this writ petition, the challenge is to the entire enactment and not to any specific provision. Such a wide and general prayer can be considered only when it is alleged that the Legislature lacks competence. The petitioner did not plead such a ground. Once he concedes the legislative competence, he cannot challenge the Act in its entirety. The challenge, if at all, can be made to any specific provision. There again he must satisfy this Court that such a provision is contrary to any superior law such as Constitution of India. The validity of a provision of law does not depend upon the acceptance or satisfaction of any individual, and that too of a social worker.

We do not find any basis to interfere in the matter. The writ petition is dismissed.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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