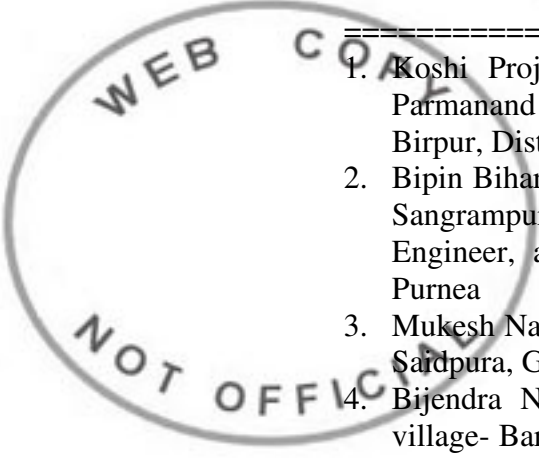


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8795 of 2008

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1. Koshi Project Workers Association, Birpur through its General Secretary Parmanand Singh son of Late Kamleshwari Singh, resident of Birpur, P .S. Birpur, District Supaul
 2. Bipin Bihari Singh son of Late Santlal Singh, resident of village- Rampur, P.S. Sangrampur, District Munger, At present- posted in the office of Superintending Engineer, as Clerk in Water Resources Department, Canal Circle, District Purnea
 3. Mukesh Nandan Sahai son of Late Binktesh Nandan Sahay, resident of village- Sardpura, Gandhi School Road, P.O., and P.S. Khagaul, District Patna
 4. Bijendra Narain Singh son of Late Rameshwar Prasad Singh, resident of village- Baruark, P.S. Suapul, District Supaul. At present posted in the office of the Executive Engineer, as Clerk in Water Resources Department, Irrigation Division NO.1, District Purnea

.... Petitioner/s

Versus

1. The State of Bihar, Water Resources Department, Sinchai Bhawan, Patna through the Commissioner- cum- Secretary
2. The Deputy Secretary, Water Resources Department, Sinchai Bhawan, Patna
3. The Chief Engineer, Water Resources Department, Purnea
4. The Executive Engineer, Irrigation Division No.1, Water Resources Department, Purnea
5. The Superintending Engineer, Canal Circle, Water Resources Department, Purnea
6. The Joint Secretary, Water Resources Department, Sinchai Bhawan, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr Birendra Kumar Sinha, Sr. Advocate

Mr. Alok Kumar Sinha

For the Respondent/s : Mr. Himanshu Kumar Akela, AC to GA 1

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 06-08-2015

The rigidity of the respondent State authorities in compliance with judicial orders is not appreciated by this Court because if a decision has been rendered in favour of a citizen, it should be implemented and honoured in letter and spirit. There cannot be any question of ego coming in the way of the benefit, which

has been conferred by a Writ Court.

The facts of the present case indicate the position noticed above. The union along with three office bearers were compelled to file the present writ application challenging the three decisions contained in Annexures 1, 2 and 3, which are dated 1.3.2007, 14.3.2007 and 11.4.2008 respectively. Petitioners want quashing of the three orders because it adversely affects their interest in matter of payment of salary for the period 1.2.2003 to 15.10.2006.

Even earlier, the Koshi Project Workers Association, a trade union, and its office bearers had approached the High Court by filing CWJC No.6124 of 2006. Their grievance was that the three individuals, who also happened to be office bearers of the union, could not be transferred in breach of the tripartite agreement dated 29.11.1994 where consent of the office bearers was a pre-condition for their transfer out of the station.

The High Court went into the gamut of the facts as well as the law and it categorically held that the transfer order on the date of its issuance was in breach of the conciliation agreement and was also bad in light of the order of the Hon'ble Supreme Court. It also opined that even if the petitioners had ceased to be the office bearers of the union after 2003, they still could not be transferred on the basis of an order that was bad at the time of its issuance. The Court further takes

note of the fact that as per the rules of the trade union, the outgoing office bearers will continue in office even if their term expired till the new office bearers took over their post the position.

With clear and categorical finding, which is recorded by learned Single Judge in his order dated 21.9.2006, a copy of which is Annexure- 8, the Court is of the opinion that the decisions impugned in the present writ application, in fact, is a case of overreach by the respondent authorities and their conduct could even verge on contempt of the judicial order passed by the learned Single Judge since the impugned orders came to be passed in the context of the order of the Writ Court.

This Court can only caution the officials of the State authorities that they should not tinker with judicial directions and pronouncements in such a casual and light manner because if they do so, they do so at their own risk. The Court is not willing to take the matter any further taking into consideration that the petitioners have now superannuated and it is a relatively old writ application.

The impugned orders contained in Annexures 1, 2 and 3 dated 1.3.2007, 14.3.2007 and 11.4.2008 respectively stand quashed. Writ application is allowed with a clear direction upon the respondents that the three petitioners, namely, petitioners no.2, 3 and 4, will be entitled to payment of their salary for the period they were

transferred till the period they joined duties i.e. 1.2.2003 to 15.10.2006 because on the basis of an illegal order of the respondents they were prevented from performing their duties.

Writ application is allowed. The benefit must accrue within a period of three months from the date of production of a copy of this order.

(Ajay Kumar Tripathi, J)

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