

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6744 of 2014

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Md. Ekramuddin, S/O Late Saiyad Bakhshish Ali, resident of Mohalla - Islam Nagar, Ward No. 13, P.O.+ Distt - Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Principle Secretary, Cabinet (Vigilance) Department, Government of Bihar, Patna.
5. The Principle Secretary, Department of Parliamentary Affairs, Government of Bihar, Patna.
6. The Director, Secondary Education, Government of Bihar, Patna
7. The Staff Selection Commission through Its Secretary, Bihar, Patna.
8. The Secretary, Staff Selection Commission, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brajesh Kumar, Advocate.

For the Respondent/s : Mr. Abhinay Raj, AC to AAG 2.

For the BSSC : Mr. Prabhat Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 06-02-2015 Heard learned counsel for the parties as with regard to

the following prayer of the petitioner made in this writ application:

"1. That this application is being filed for issuance of writ/writs, order/orders, direction/directions to the respondent authorities to make a through enquiry in all the appointments made in the erstwhile Vidyalaya Sewa Board during the tenure of Dr. S.D.N.Singh and subsequent their absorption in to staff selection commission, Patna in blatant violation of the order passed in CWJC No. 2830/1996. It is further prayed to direct for constitution of a high level committee to look into this mater of appointment and promotion illegally granted to several persons and their continuation thereon and come to a definite conclusion."

2. Learned counsel for the petitioner, in support of the



mentioned prayer, has straightway invited attention of this Court to the order passed by the Division Bench of this Court on 30.07.1996, wherein an observation is said to have been made that since the appointment made by Mr. S.D.N.Singh, the then Chairman of Vidyalaya Seva Board, was without any authority of law, such appointment made by him should be terminated at an early date. To that extent, it would be relevant to quote the whole of the order dated 30.07.1996 in order to give correct meaning to the portion of the order relied by the learned counsel for the petitioner, which reads as follows:

"The petitioner in this case sought this Court's intervention against respondent no. 6, who, according to the petitioner, was exercising the privileges and facilities admissible to a Minister of State. It was stated in the writ petition that in exercise of such privileges, respondent no. 6, Chairman of the Vidyalaya Seva Board, had also made certain appointments which were not permissible in law.

Notices to show cause were issued to the respondent authorities as also to respondent no. 6.

Mr. Yugal Kishore, appearing on behalf of respondent no. 2, Secretary, Parliamentary Affairs Department filed affidavits enclosing letters addressed to him wherein it was clearly and definitely stated that no such privileges or facilities were allowed to respondent no. 6 by the State Government.

Mr. R.P.Singh, learned counsel appearing on behalf of respondent no. 6 citing an earlier notification dated 9th November, 1987 submitted that it was on account of that notification that respondent no. 6 had been misled into the belief that he enjoyed the privileges, facilities and benefits admissible to a Minister of State and under this misapprehension he had made the appointments in question. Mr. Singh fairly admitted that in view of the positive and definite stand taken by the State Government it was not open to respondent no. 6 to exercise these privileges, facilities and benefits and it was done in the past due to the misunderstanding on his part on account of the aforesaid notification.

That being the position no further order need be passed in this case.

We would, however, only observe that as the

appointments were made without any authority of law respondent no. 6 would be well advised to terminate them at an early date."

3. Learned counsel for the petitioner has submitted that despite the aforementioned observation made by this Court, the appointments which were made by the respondent no. 6 in Vidyalaya Seva Board were not terminated.

4. Learned counsel for the respondents, on the other hand, has submitted that this writ application, even for the purpose of seeking a direction for holding enquiry at the instance of the petitioner, who is a busy body, is not maintainable specially when a period of at least 18 years have already lapsed ever since the aforementioned observation was made by this Court, during which period the Vidyalaya Seva Board itself has been abolished and its working staffs have already been adjusted in various Departments/ Commissions including Bihar Staff Selection Commission.

5. In the considered opinion of this Court, this writ application is fit to be dismissed for more than one reasons. Firstly, the delay of more than 18 years in moving this Court by the petitioner would stare in his face. Secondly, if the petitioner thought that the order of this Court even by way of observation giving command to respondent no. 6, the then Chairman of Vidyalaya Seva Board, to terminate his appointments and that was



not done, he had remedy of filing the contempt. It is well settled that time and again same direction cannot be issued in different writ applications at the instance of the same petitioner. Thirdly, this Court would find that the Vidyalaya Seva Board itself has been abolished some time in the year 2000 and now neither the Chairman of the Vidyalaya Seva Board nor the then Chairman Mr. S.D.N. Singh do exist and as such any power for holding enquiry in those appointments, not only on account of delay but even otherwise, seems to be wholly misconceived.

6. Finally, this Court must held that the petitioner has got no *locus standi* to agitate this cause of action any longer by filing a fresh writ application because when in the year 1996, he had sought certain direction against the appointment and working of the respondent no. 6, in that writ petition, namely, Mr. S.D.N. Singh, Chairman of the Vidyalaya Seva Board, he may have come to this Court even by way of a public spirited person seeking removal of S.D.N. Singh by way of writ of *quo warranto*, but today seeking writ of *certiorari* or *mandamus*, he must establish it as a matter of right.

7. As noted above, the petitioner is not an employee of the Vidyalaya Seva Board; nor in any way connected with the aforementioned Vidyalaya Seva Board. He only claims to be a

social worker. Therefore, he is not competent to question the appointment which has continued at least for more than two decades without being disturbed.

8. Thus, for the reasons recorded above, this writ application must fail and is hereby dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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