

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2443 of 2014

IN

Civil Writ Jurisdiction Case No. 1386 of 2004

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Ashok Kumar Kanaujya, son of Kedar Ram, resident of village - Miriya, P.O. - Odar, P.S. - Sonhan, District - Kaimur, Bhabhua.

.... Petitioner.

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Government of Bihar, Patna
2. Sri R.C. Baishya, the Secretary, Social Welfare Department, Government of Bihar, New Secretariate, Patna
3. Sri Ahsan Ahmad, Director, Social Welfare, Government of Bihar, New Secretariate, Patna.
4. Sri Kishore Chand Dubey, Dy. Director, Welfare, Patna Division, Patna.
5. Sri Braj Raj Rai, District Welfare Officer, Bhabhua.
6. Sri Rama Shankar Ram, Headmaster of Harizan Residential School, Bhabhua

.... Respondents/Contemnors/Opposite Parties.

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Appearance :

For the Petitioner : M/s. Deepak Kumar and Ashok Kumar Mishra, Advocates.

For the State : Mr. Mayank Rukhaiyar, AC to GA-I.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 13-02-2015

Heard learned counsel for the petitioner and the learned AC to GA-I for the State.

2. The present contempt application has been filed asserting the non compliance of the order dated 03.11.2004 passed in C.W.J.C. No.1386 of 2004.

3. The aforesaid writ application of the petitioner was disposed of vide order dated 03.11.2004 passed in C.W.J.C. No.1386 of 2004 by setting aside the order of termination of the petitioner dated



16.01.2002 with further observation that the respondents would be at liberty, should they so desire, to initiate fresh enquiry into the nature of appointment of the petitioner. Any such enquiry by the respondents would necessarily have to bring within its fold the then Deputy Director, Welfare, Patna Division, Patna. The respondents would be required to initiate such enquiry within a period of two months from the date of receipt or production of a copy of this order and conclude the same within a period of two months from the date of such commencement of the enquiry. It goes without saying that if the respondents proposes to pass an order adverse to the petitioner they shall be required to pass reasoned and speaking order.

4. Learned counsel for the petitioner submits that the copy of the order dated 03.11.2004 passed in C.W.J.C. No.1386 of 2004 was submitted before the Headmaster of Harizan Residential Secondary School, Bhabhua, Kaimur (Opposite Party No.6) on 02.12.2004 forwarding the copies of the same to other respondents through post. In view of the order dated 03.11.2004, show cause was to be issued within two months from the date of submitting the application and copy of the order dated 03.01.2004 but the show cause was issued to the petitioner on 15.03.2005 by the Director, Social Welfare, Government of Bihar, New Secretariat, Patna (Opposite Party No.3) to initiate departmental proceeding, which is beyond two months. As such, the initiation of the



departmental proceeding by issuing notice of show cause to the petitioner on 02.12.2014 by opposite party no.6 after two months of submitting the application alongwith order dated 03.11.2004 of C.W.J.C. No.1386 of 2004 and punishing the petitioner on that very departmental enquiry is against the observation/direction of the order dated 03.11.2004 of C.W.J.C. No.1386 of 2004.

5. On the other hand, learned AC to GA-I, appearing on behalf of the State, submits that the present contempt application regarding the non following the direction of order dated 03.11.2004 passed in C.W.J.C. No.1386 of 2004 has been filed on 10.07.2014, after ten years. As such the present contempt application is time barred according to Section 20 of the Contempt of the Court's Act.

6. From perusal of the records, it appears that the present contempt application is filed after 10 years of passing of the order under contempt on 03.11.2004 in C.W.J.C. No.1386 of 2004. It further appears that the petitioner had submitted an application along with the order dated 03.11.2004 passed in C.W.J.C. No.1386 of 2004 before the Opposite Party No.6, the Headmaster of Harizan Residential Secondary School, Bhabhua, Kaimur on 02.12.2004, but there is nothing on the record to show the date of submitting the copy of the said application and the order before the Opposite Party No.3, the Director, Social Welfare, Government of Bihar, New Secretariat, Patna, who was the

disciplinary Authority. I find that the present contempt application has been filed after much delay and is time barred according to Section 20 of the Contempt of Court's Act. Moreover, no date has been disclosed about submitting the copy of application alongwith the order under contempt by the petitioner before the Opposite Party No.3, the Director, Social Welfare, Government of Bihar, New Secretariat, Patna. As such, I do not find any reason to proceed further with this contempt application. Accordingly, this contempt application stands disposed of.

(Rajendra Kumar Mishra, J)

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