

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8848 of 2013

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Mithilesh Kumar Singh, son of late Dinesh Kumar Singh, At present residing D/104 Daroga Prasad Rai Path, Patna, P.S.- Kotwali, District- Patna and Permanent Address: Resident Of Village- Ramo Bariya, P.S.- Industrial Area Buxar, District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Cabinet Secretary, Govt. of Bihar, Patna.
4. The Secretary, General Administration Department, Government of Bihar, Patna.
5. The Joint Secretary to the Government, General Administration Department, Government of Bihar, Patna.
6. The Selection Committee through its Convener the Chairman, Bihar Legislative Council, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar, Advocate
Mr. Shiv Kumar Prabhakar, Advocate
Mr. Rajesh Kumar Singh, Advocate
For the Respondent/s : Mr. Lalit Kishore, P.A.A.G
Mr. Bishwa Bibhuti Kumar Singh, A.C. to P.A.A.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-01-2015

This writ petition is filed with a prayer to direct the respondents to take steps for filling up the vacancies in the institution of Lokayukta in the State of Bihar.

It is stated that consequent upon the enactment of the Bihar Lokayukta Act, 2011 (for short, 'the Act'), it became necessary to appoint an administrative and a judicial members but so far, no steps have been taken in this regard.

On behalf of the respondents, a counter affidavit is filed.

It is stated that the Act and Rules made thereunder provide for constitution of Selection Committee, comprising Speaker of the Bihar Legislative Assembly, Chairman of the Bihar Legislative Council and two sitting senior most Judges of this Court; and such a Selection Committee has, in fact, been constituted. It is also stated that the Selection Committee appointed a Search Committee comprising of two former Judges of the Hon'ble Supreme Court and certain others, the Committee, in turn, recommended two names for each category. It is stated that the requirement under the law is that at least three names for each category must be recommended and since only two names each were recommended, the matter has again been referred to the Search Committee. It is stated that the matter is under consideration and as soon as the names are submitted, further steps would be taken in accordance with law.

Heard Sri Dinu Kumar, learned counsel for the petitioner and Sri Lalit Kishore, learned Principal Additional Advocate General for the respondents.

The anxiety of the petitioner is to ensure that the institution of the Lokayukta becomes fully functional, in accordance with the Act. The appointment of two members in the institution of the Lokayukata is certainly a matter of urgency. However, the procedure to select the members and to appoint them is a detailed

one. The Selection Committee itself has to be constituted comprising the Speaker of the Bihar Legislative Assembly and the Chairman of the Bihar Legislative Council, two senior Judges of the High Court and others. Thereafter, the Selection Committee has to appoint a Search Committee for recommendation of the names of the two members in the institution of the Lokayukta. The Selection Committee, in turn, has to consider the recommendation to be made by the Search Committee. The Search Committee recommended only two names for each category, whereas according to provisions of the Act, three names need be recommended for each category.

Taking into consideration the totality of the circumstances, we dispose of the writ petition, directing that the respondent shall complete the process of appointment of Members of the institution of the Lokayukta within a period of three months from today.

Interlocutory application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Gopal Prasad, J)

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