

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.548 of 2013

In

Civil Writ Jurisdiction Case No. 13421 of 2009

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Lallan Kishore Arohi S/O Sri Ramchandra At Present Resident Of Mohalla
- Johanpur, (P.C.S. School P.O. Buniyadganj, District - Gaya, Assistant
Teacher Posted At High School - Maksudpur, Gaya

.... Petitioner

Versus

1. The State Of Bihar
2. Sri Kamal Kumar Sinha, The Director Secondary Education Department
Budhmarg, Patna
3. Sri Raj Mukul, Regional Deputy Director Gaya, Secondary Education
Department
4. Sri Binod Kumar Jha, The District Education Officer, Gaya

.... Opposite Parties

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Appearance :

For the Petitioner : M/s Bindhyachal Singh and
Shailesh Kumar Singh, Advocates

For the State : M/s Anjani Kumar, AAG 6 and
Sunil Kumar, AC to AAG 6

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

33 09-09-2015 I have heard parties.

This application has been filed for initiation of a
proceeding of contempt against the opposite parties for non
compliance of the order dated 11.10.2012 passed in C.W.J.C.
No. 13421 of 2009.

By the aforesaid order this Court has quashed the order of
termination of the petitioner and has directed for his
reinstatement and also for payment of back wages. Though the
order was not complied immediately, however, during the
pendency of this writ application the petitioner was reinstated

and back wages have also been paid but at the same time a fresh departmental proceeding has been initiated against him and during the pendency the same has come to a logical conclusion and an order of termination has again been passed. Not only that, a decision has been taken to lodge first information report against the petitioner.

Mr. Bindhayachal Singh, learned counsel appearing for the petitioner draws attention of this Court towards several paragraphs of the order passed in C.W.J.C. No. 13421 of 2009 specially last portion of the order at page 11/12 to impress upon this Court that it has already been observed that the State of Bihar would take action in light of the out-come of the criminal proceeding only as was observed by the Apex Court in **State of Bihar and others Vs. Birendra Singh** which was appended as Annexure 7 to the writ petition. It has also been stated in the order that the same was passed without proper initiation of the proceeding and, therefore, that was quashed and in view of the fact that, in the criminal case already lodged against the petitioner, a final form was submitted stating that the case was a mistake of fact, in view of the order passed by the Apex Court in the aforesaid case and in view of the directions of this Court in the order concerned no fresh proceeding could have been

initiated and there is no question of lodging first information report on the self same ground or allegation.

Learned AAG 6 has appeared in this matter on behalf of the opposite parties and has drawn attention of this Court towards the order dated 1.11.2003 passed by a Division Bench of this Court in L.P.A. No. 540/2013 preferred against the order dated 11.10.2012 passed by this court in C.W.J.C. No. 13421/2009. It has been urged that the appeal was withdrawn with reserving the right to proceed against the petitioner in accordance with law. However, learned counsel for the petitioner points out that though after some argument learned counsel appearing for the appellants made a submission that he seeks to withdraw the appeal reserving the right to proceed further in accordance with law but no such liberty appears to have been granted by Division Bench as the appeal has been simply dismissed as withdrawn. Therefore, fresh proceeding could not have been initiated.

However, this is also a fact that now a fresh proceeding not only has been initiated but has also culminated into a final order passed therein terminating the petitioner and in my considered opinion testing veracity of such order in the contempt petition would be beyond its scope but the same can

be put to challenge by the petitioner by filling a properly constituted writ application.

In above view of the matter, the proceeding is dropped with a liberty to the petitioner to assail the order concerned before a competent forum.

(Dr. Ravi Ranjan, J)

Spd/-

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