

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.142 of 2015

In
Miscellaneous Jurisdiction Case No. 5495 of 2013

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1. Chandra Choor Pandit S/o Late Dev Narayan Pandit R/o Village Samiastipur, P.O. & P.S. Sahabpur Kamal, District Begusarai.
 2. Vishun Dev Sharma S/o Shri Ram Sharma R/o Chapraon (Andhari), P.S. Simri Bakhtiarapur, District Saharsa.
 3. Shiv Shankar Tharur S/o Late Ram Chatira Thakur R/o Village Tiswara, P.S. Sarairanjan, District Samastipur.
 4. Bharat Pandey S/o Late Sudarshan Pandey R/o Village Parmeshwarapur, P.S. Shikrauat, District Begusarai.
 5. Manoranjan Prasad S/o Late Chandra Shekhar Narayan Sinha R/o Mahalla New Yaarpur, janta Road, P.S. Gardanibagh, District Patna.
 6. Arjun Bihari Das S/o Late Chandra Narayan Das R/o Village Dahlipatti, P.O. Ganpatganj, P.S. Raghaupur, District Supaul.

.... Petitioners

Versus

1. The State of Bihar.
2. Shri Vinay Kumar Fathers name Not known to the Petitioners, Secretary, Animal Husbandry Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
3. Shri Alok Ranjan Ghosh Fathers name Not known to the Petitioners, Director, Animal Husbandry Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr.Adv.
Mr. Jai Kishor Poddar, Adv.
For the Opp. Party/s : AC to Addl. Advocate General - 6

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 13-05-2015 Heard Sri Shivendra Kishore, learned senior counsel, who was assisted by Sri Jai Kishor Poddar, learned counsel for petitioners and learned A.C. to Addl. Advocate General – 6.

The present petition has been filed under Article 226 of the Constitution of India, with a prayer to recall order dated 03-12-2014 passed in M.J.C. No. 5495 of 2013.

In M.J.C. No. 5495 of 2013 on 03-12-2014, learned counsel for petitioners submits that in view of changed circumstances, he was not intending to press the petition. Accordingly, the said petition stood dismissed as not pressed.

In the present petition, it has been indicated that due to bona fide mistake on the part of the learned counsel for petitioners, incorrect submission was made before this Court and prayer was made for withdrawal of the petition. It was submitted by learned counsel for petitioners that in respect of same petitioners, learned counsel was pursuing two contempt petitions i.e. M.J.C. No. 5495 of 2013 and M.J.C. No. 2600 of 2011. Both petitions were filed for initiating contempt due to non-compliance of the order of the writ court. He submits that during the pendency of the M.J.C. No. 2600 of 2011, the order of the writ court was complied with and as such, he was instructed by his client not to press the said contempt petition. However, due to bona fide mistake, learned counsel for petitioners in the present matter i.e. M.J.C. No. 5495 of 2013 made a prayer for withdrawal of the contempt petition. He submits that M.J.C. No. 5495 of 2013 was in relation to claim of promotion of the petitioners, whereas, the second contempt petition i.e. M.J.C. No. 2600 of 2011 was in relation to retiral dues. In sum & substance, it has

been submitted that it was out-and-out bona fide mistake on the part of the learned counsel for petitioners and as such, inadvertently, the prayer was made for withdrawal of the said contempt petition. He submits that order passed in C.W.J.C. No. 11935 of 2006 for which, contempt petition, vide M.J.C. No. 5495 of 2013 was filed, has not been complied with till date.

In view of the submission made by learned counsel for petitioners and bona fide mistake, the Court considers that it is a fit case for exercising jurisdiction to recall the earlier order.

Accordingly, order dated 03-12-2014 passed in M.J.C. No. 5495 of 2013 is recalled and the said M.J.C. No. 5495 of 2013 is restored to its original file.

The petition stands allowed.

(Rakesh Kumar, J.)

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