

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No 4841 of 2014

IN

LPA 131 of 2010

- =====
1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
 2. The Secretary, Personnel & Administrative Reforms Department, Government of Bihar, Patna.
 3. The Under Secretary, Personnel Administrative Reforms Department, Government of Bihar, Patna.
 4. The Secretary, Co-operative Department, Government of Bihar, Patna.

.... Petitioner/s

Versus

Vijay Kumar Sharma, aged about 59 years and 6 months, son of late Chandrika Sharma, Joint Secretary, Co-operative Department, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Gupta

For the Respondent/s : Mr.

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 11-09-2015

Shri Dharendra Kumar Gupta, the Advocate-on-record, who filed the pleadings in these proceedings, has been noticed by us to file show cause as to why we should not take appropriate action against him for his unethical unprofessional conduct. Orders dated 29.07.2015 and 28.08.2015 note the facts which we may briefly note again.

2 One Vijay Kumar Sharma, who was Class I Gazetted Officer in the State Government, had filed a writ petition in

relation to certain service matter. The writ petition was allowed by a learned Single Judge. A much belated Letters Patent Appeal (For brevity, *the LPA*) was preferred by the State. The LPA was being argued wherein no one entered appearance, inspite of notice, on behalf of respondent Vijay Kumar Sharma who was the writ petitioner. Apparently, the Division Bench, considering the matter, was contemplating to condone the delay and entertain the appeal on merit and the order was being dictated when the Advocate Shri Dhirendra Kumar Gupta got up and moved an application, that is the present application, for transfer of case from the Court. The pleading was that as the Court was entertaining the LPA and not dismissing it on ground of delay, his client had serious apprehension about the conduct of the Judges. Serious allegations were made upon the integrity of the Judges only to embarrass them and force them not to hear the matter. Faced with such scandalous unfounded allegations, the Judges recused themselves and did not complete the order. Accordingly, this transfer application was listed before this Bench as the Judges, forming the earlier Division Bench, had recused themselves. The Lawyer succeeded and the petition had become virtually infructuous. When it was taken up by us, very innocently, a prayer was made that the application, becoming infructuous, may now be permitted to be withdrawn. We refused permission and in view of the scandalous



approach and the scandalous statement made and the allegations made against the Judges, we initiated proceedings of criminal contempt against Shri Vijay Kumar Sharma. The Advocate-on-record was then reluctant to produce him. He had given wrong address. He feigned ignorance of his whereabouts. Then he prayed in the Court that he is in coma lying in a Hospital at Kolkata and could not come. When we proceeded, two days later, he was hale and hearty present in the Court. We noted his contempt and found him guilty of criminal contempt and sentenced him to imprisonment for a day. While doing so, we noticed that Shri Dharendra Kumar Gupta, the Advocate-on-record abdicated his responsibility to the Court and acted contrary to the professional ethics and profession conduct. We, accordingly, initiated criminal contempt proceedings against him as well. The show cause, as filed by Shri Dharendra Kumar Gupta, is far from satisfactory. Apart from apology, there is nothing. We recall that, on two days, he had belligerently argued and tried to teach this Court the fundamental and constitutional rights of the citizen, as if the rights, are unbridled and a licence to abuse Judges.

3 In such a situation and looking to the judgment of the Apex Court in the case of *Vishram Singh Raghubanshi –Versus- State of U P* since reported in *AIR 2011 Supreme Court 2275* as also the Special Bench judgment of this Court on the issue *In The Matter*



of Initiating Contempt Proceeding In Connection with Obstruction of Court of Justice at Civil Court, Patna City, Patna –Versus- Gopal Prasad Singh & Others since reported in 2014 (1) PLJR 756, we reject the unqualified apology as we have no manner of doubt that the statements made and the averments made in the transfer application were made deliberately and purposefully. The Advocate-on-record abdicated his duties, as an Officer of the Court and forgot the professional ethics in signing those pleadings and filing it in the Court and then insisting to argue the matter, being a matter of fundamental right and a constitutional right of the citizen including right to abuse the Court.

4 Under the aforesaid circumstances, we do not accept the apology and reject the same inspite of the fact that two leading Members of the Bar have pleaded for mercy. Mercy is given to those who deserves mercy. Shri Dharendra Kumar Gupta, Advocate is an Advocate of over 35 years of standing and professes that he knows all the leading luminaries of the country. Unfortunately, he forgot the basic duty to the Court as an Officer of the Court.

5 Having considered the matter, in view of the status of the learned Senior Counsels, who have appeared and pleaded for Shri Dharendra Kumar Gupta, instead of taking further steps in the matter, we drop these proceedings with a strong warning. If ever it is

reported by any Court about misdemeanour in any manner by Shri Dhirendra Kumar Gupta then this Court, that is the High Court, would consider cancelling his certificate/recognition/designation as an AOR and recommending to the State Bar Council that his licence to practice be also cancelled as such people are liability to the profession. Litigants are not safe in his hands.

6 With this warning, we discharge this proceeding.

7 This criminal contempt proceeding having been disposed of, it is to be noted that this application for transfer of the case has also become infructuous.

8 Let a copy of this order be sent to the Bar Council of India and the Bihar State Bar Council. A copy be retained by the Registry of this Court for future use, if any. A copy may also be marked to the Bihar Judicial Academy all with the permission of Hon'ble the Chief Justice.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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