

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3069 of 2016

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1. Nagendra Kumar Singh Son of Shri Baikunth Singh resident of Village- Keshopur, Police Station- Barhara, District- Bhojpur.
2. Prakash Kumar Shrivastava, Son of Late Ram Lakhan Narayan resident of Village- Kumhar Toli, Police Station- Hazaribag, District- Hazaaribag

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Health, Government of Bihar, Patna.
2. The Director in Chief, Health Services, Bihar, New Secretariat, Patna.
3. The Deputy Director, Health Department, Government of Bihar, Patna.
4. The Regional Deputy Director, Health Services, Patna Division, Patna.
5. The Civil Surgeon cum the Chief Medical Officer, Bhojpur, Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha

For the Respondent/s : Mr. Binit Kumar, AC to GA 7

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 21-04-2016

Both the petitioners have had to fight a long-drawn legal battle to stay on in service under the respondent State authorities because the respondent authorities would insist on dismissing them on one ground or the other but the Courts have given directions under writ jurisdiction which did help them to maintain some kind of status under the respondents.

The core issue related to the correctness or otherwise of the so-called appointment letters issued in their favour in the very first place because the respondents took a stand that such a letter was a forged letter.

In the last of the writ applications, which was registered

as CWJC No.7368 of 2003 and decided on 27.8.2010 (Annexure- 6), looking at the nature of the controversy, the learned Single Judge permitted the petitioners to file a suit before an appropriate civil court. A suit was filed, which was registered as Title Suit No.6 of 2011. After due hearing, the court of 2nd Munsif, Bhojpur at Ara decreed the suit in favour of the petitioner on 30.11.2013. It ordered rejoining of the petitioners as well as payment of past salary etc.

The legal question which arises for consideration is whether the High Court under Article 226 of the Constitution of India will act as a forum for execution of judgment and decree passed by the learned Munsif. When such a question is put to the counsel, he has no answer to offer for the legal question so raised.

Since the Code of Civil Procedure is a complete code by itself, therefore, this Court will not exercise its extraordinary jurisdiction under Article 226 of the Constitution of India for enforcement of the judgment and decree of the Munsif. The forum chosen by the petitioners obviously is a ill-advised forum

Writ is dismissed.

(Ajay Kumar Tripathi, J)

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AFR/NAFR	AFR
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