

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2646 of 2016

Arising out of

Letters Patent Appeal No. 869 of 2009

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Krishna Ballabh, son of Sri Raghunandan Prasad Singh, resident of village- Balwa,
P.O. Varuna, P.S. Fatwah, District- Patna.

.... Petitioner/s

Versus

1. The Union of India
2. Shri Anupam Shrivastava, Chairman cum Managing Director, Bharat Sanchar Nigam Limited, New Delhi.
3. Shri Shiv Lal Singh, Chief General Manager, Telecommunication, Bharat Sanchar Nigam Limited, Bihar Circle, Patna.
4. Shri A.K.Biswas, D.G.M. (Vigilance), Culcutta Telephones, Calcutta.
5. Shri Shankar Prasad, D.G.M. (Vigilance), Bharat Sanchar Nigam Limited, Bihar Circle, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V.Giri, Sr. Advocate.
Mr. Nikhil Kumar Agrawal, Advocate.

For the B.S.N.L : Mr. Harendra Prasad Singh, Advocate.
Mr. Santosh Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 16-12-2016

Heard learned counsel for the petitioner and learned
counsel for the Bharat Sanchar Nigam Limited.

2. The contempt application has been filed claiming wilful
and deliberate disobedience of the order dated 09.12.2011 passed by
this Court in L.P.A. No. 869 of 2008.

3. The said appeal had been filed by the respondents of the
writ application, i.e. Bharat Sanchar Nigam Limited (BSNL) against



the order of the learned single Judge, who had quashed the order dated 26.08.2004 issued by the respondent no. 2 keeping the order of training of the petitioner in abeyance as well as the subsequent decision to keep the order of training in abeyance till final outcome of C.B.I. Case No. R.C. 43/A/97/Pat, and further directions were issued to the respondents to issue order for training of the petitioner and on completion of training period, issue final appointment letter of Junior Telecom Officer, Bihar Circle, BSNL to the petitioner.

4. On appeal, the contention of learned senior counsel for the writ petitioner-respondent that mere pendency of the C.B.I. case will not entitle the B.S.N.L. to stop issuance of order of training as well as appointment letter to the respondent, was found unconvincing and it was held by the Division Bench that it was a fact that the CBI case was still pending in the file of CBI, Patna in which the respondent was shown as one of the accused and, therefore, the Court was of the opinion that the respondent could not have a right to seek issuance of order of training or appointment letter. However, the matter was disposed of with a direction to the CBI to dispose of the said CBI Case No. 43/A/97/Pat, because it was an old case, within a period of six months from the date of receipt/production of a copy of the order and it was further observed that till such time, the order of the learned Single Judge shall not become operative and also made it



clear that if the writ petitioner would not succeed in the CBI case then the order of the learned single Judge would stand set aside.

5. Learned senior counsel for the petitioner argues before us that the direction of the Court that till such time the order of the learned Single Judge shall not become operative was for a period of six months from the date of receipt/production of a copy of that order and after that period the order would become operative. It is, thus, submitted that the respondents by not acting in the matter, after the expiry of the period of six months the order of the learned Single Judge would have become operative they have, therefore, violated the order dated 09.12.2011 under contempt.

6. Learned counsel for the BSNL opposes the stand and submits that the direction of the Court has to be seen as per the judgment given. It is submitted that there was a clear finding on the submission of learned senior counsel that the CBI case was still pending in which the petitioner was an accused and, therefore, he did not have a right to seek issuance of order of training or appointment letter. According to him, the CBI case is still continuing and the mere passage of six months will not revive the order of the learned Single Judge. According to him, the words 'such time' in the appellate order would really apply to the pendency of the CBI Case and not to the period of six months fixed for its disposal?



7. A report has been called for from the Special Judge, CBI-II, Patna as to the status of the case and it is reported that charge-sheets have been submitted, but a very large number of petitions, under Section 207 of the Cr.P.C. and under Section 239 of the Cr.P.C. for discharge, have been filed and accordingly, in the report dated 01.10.2016 of the Special Judge, CBI, Patna, it is requested that if the parties co-operate, charge will be framed very soon and after framing of charge at least one year time will be required for disposal of the case.

8. Learned counsel for the opposite parties had also been directed to state on affidavit with regard to the specific allegations against the petitioner. It is stated in the show cause filed on behalf of the O.P. No. 3 that large scale bungling, manipulation and fraud was committed in the conduct of the Combined Engineering Entrance Examination, 1996 which involved high-ups upto the then Minister, Science and Technology, Government of Bihar as also others in conducting the said examination, including the then Principal, MIT, Muzaffarpur, who had entered into a criminal conspiracy and in pursuance of the said criminal conspiracy, they got the names of 245 undeserving candidates included in the merit list of the said examination by resorting to manipulation in the answer sheets and other allied documents concerning the said examination. During the



investigation, it was found that the petitioner Krishna Ballabh has figured in the manipulation of Physics, Chemistry and Math answer books as it was found that the answers were tallying with the model answers prepared by the questions setters and further, CFSL, New Delhi through its opinion has confirmed that the answer books have been written by the said accused Krishna Ballabh and the same thus *prima face* established that the accused petitioner has copied out his answers from model answers after the examination was over and his answer books were replaced along with the “B” Flaps in the strong room of MIT, Muzaffarpur. It is further stated that charge-sheet dated 12.10.2001 has also been filed against him under Sections 120B, 420, 468, 471, 201 and 204 of the Indian Penal Code and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act.

9. It is very difficult to accept the argument of learned senior counsel for the petitioner that the words ‘till such time’ in the order under contempt shall become operative after the period of six months and we are in agreement with the submission of learned counsel for the BSNL that the reference of the said words was to the pendency of the criminal case.

10. In the aforesaid circumstances, since the criminal case continues to be pending, it cannot be said that there has been any violation of the order dated 09.12. 2012 passed in the Letters Patent



Appeal No. 869 of 2008.

11. For the said reason, the contempt application cannot be proceeded with. It is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Arun Kumar, J)

N.H./Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	10-01-2017
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