

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6289 of 2014

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1. Jai Narayan Jha Son Of Late Sri Bansoo Jha, permanent resident Of Village and Post Office - Saurath, P.S. - Rahika, District - Madhubani, Bihar

.... Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
3. Joint Secretary (Allegation), General Administration Department, Government of Bihar, Patna
4. Deputy Secretary, General Administration Department, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nikhil Kumar Agrawal
For the Respondent/s : Mr. Gautam Bose, AAG 8
Mr Rohit Mishra

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
CAV JUDGMENT
Date: 5-05-2016

The writ application has been filed by the petitioner for grant of promotion on the post of Joint Secretary, General Administration Department under Government of Bihar with effect from 27.8.2013 since this is the date when juniors to the petitioner came to be granted benefit of promotion. Petitioner also wants consequential benefits as well as quashing of notification contained in Annexure- 2 dated 27.8.2013 by virtue of which at least three officers junior to the petitioner have been granted promotion at the cost of exclusion of the name of the petitioner. Petitioner terms such an

action and decision on part of the respondents to be violative of Articles 14, 16 and 21 of the Constitution of India.

2. As per the petitioner, he belongs to 31st batch of the Bihar Administrative Service and his seniority position in the civil list dated 1.9.2011 is 313/11. When the turn for grant of promotion to the batch came, at least three persons junior to the petitioner came to be promoted and to the shock of the petitioner, his name did not find mention in Annexure- 2.

3. Petitioner sought information under the Right to Information Act, as to the reason for non-grant of promotion. The reason which emerged from the information is that the petitioner is an accused in Hilsa P.S. Case No.452 of 1998 and sanction for prosecution too had been given.

4. A statement has been made in the writ application that the police after investigation decided to file a final report stating that it was a case of mistake of facts and the investigation be closed. Such final form also had approval of the SP and the DIG, Patna Range. However, since the issue was not closed by the Trial Court, his case for promotion was not taken up on the ground of pendency of a criminal case.

5. All the above facts have been taken note of only to give the background to the present dispute and the Court would not like to

go into the merits of the matter with regard to the authenticity or otherwise of pending criminal case. What this court is alarmed by is the methodology adopted to bring to an end or closure of a trial by obtaining an order from the Lok Adalat, Nalanda at Biharsharif.

6. Obviously, some manipulation has been done behind the reference of the criminal case, which was GR Case No.1506 of 1998, arising out of Hilsa P.S. Case No.452 of 1998, by getting it referred to the Lok Adalat. Since such matters do not come within the ambit of the Legal Services Authorities Act, 1987 or the nature of cases, which are not required to be decided by a Lok Adalat as per proviso to Section 19 (5) (ii) of the Act, the Court decided to issue notice to the Presiding Officer of the Lok Adalat and seek response.

7. The blame game starts. The Presiding Officer tries to shift the burden on the Secretary of the Lok Adalat and vice versa.

8. The explanations given by Shri Vishave Vibhuti Gupta, Civil Judge- cum- ACJM, Hilsa, Nalanda at Biharsharif is available on record. Similarly, show cause on behalf of one Smt. Rashmi Prasad, Munsif, Hilsa, Nalanda at Biharsharif is also on record. The Court is least satisfied with the explanations offered by the two officers and is prima facie satisfied that the forum of the Lok Adalat has been illegally allowed to be used or invoked to bring to an end a criminal case by obviously some connivance or the other of the

petitioner with the authorities manning the Lok Adalat, if not the Court which made a reference to the Lok Adalat.

9. Court has come across many instances where dishonest litigants are invoking the jurisdiction of Lok Adalat to get matters decided, which do not even come within the ambit of the Act and this Court is not willing to accept that the judicial officers are so naive that they are not aware of the provisions of the statute or the subject matters, which can be brought within the ambit of the Lok Adalat.

10. This Court will not allow the image of the Lok Adalat to be sullied and to be made into a forum for wheeler-dealers and fixers, with omission and commission of judicial officers manning such forums and allow such forums to be discredited in such a manner.

11. In above circumstances, the petitioner counsel decided not to press the matter any further, therefore, the writ application is dismissed and no relief can be given to the petitioner on the basis of the Lok Adalat. In fact, the Court would quash the order of the Lok Adalat, which has been annexed as Annexure-8 with the rejoinder application filed on behalf of the petitioner to the counter affidavit of respondent no.2. The said order is dated 12.12.2015 by virtue of which the Lok Adalat had given a direction to the Court to accept the final form in Hilsa P.S. Case No.452 of 1998.

12. The Court also directs the Registrar General to bring the above order and the entire record of the case before the Standing Committee for consideration as to what is required to be done in a matter like this against the concerned judicial Officers on the administrative side.

(Ajay Kumar Tripathi, J)

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