

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1400 of 2015

In

Civil Writ Jurisdiction Case No. 11671 of 2013

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Krishna Kumar Puri son of Late Kamta Puri, Resident of Village : -
Daudnagar, P.O. : - Daudnagar, District : - Aurangabad, at present retired
District Agriculture Officer (Extension), Nawada, District : - Nawada

.... Petitioner.

Versus

1. The State of Bihar, through Sri Vijay Prakash, Agriculture Production
Commissioner, Department of Agriculture, Government of Bihar, New
Secretariat, Patna
2. Sri Rameshwar Singh, the Principal Secretary, Finance Department,
Government of Bihar, Old Secretariat, Patna
3. Sri Dharmendra Singh, the Director Agriculture, Agricultural Directorate,
Department of Agriculture, Government of Bihar, New Secretariat Patna
4. Sri Aditya Narayan Roy, the Director Soil Conservation, Government Of
Bihar, New Secretariat, Patna
5. Sri Ram Prakash Sahani, the Joint Director Agricultural (Adoptive
Research) , Mithapur Agriculture Farm, Government of Bihar, Patna
6. Vidita Rai, the Deputy Director (Administration), Agriculture
Directorate, Department of Agriculture, Government of Bihar, New
Secretariat, Patna

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Ved Prakash Srivastva

For the Respondent/s : Mr. Anil Kr Uapdhyay

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

8 08-04-2016

Heard Mr. M.N.Parbat, learned senior counsel

appearing for the petitioner and the learned counsel appearing for
the State-respondents.

The present petition has been filed praying for
initiation of a proceeding of contempt against the respondents
particularly the respondent no.3 for violating the direction as
contained in the order dated 17.11.2014 passed in C.W.J.C.

No.11671/2013. A show cause has been filed on behalf of the opposite party nos. 1 and 3.

By order dated 17.11.2014 the C.W.J.C. No.11671/2013 was allowed and the impugned order dated 14.06.2010 passed by the respondent no.3 was quashed. The matter was remanded back to the respondent no.3 for passing a reasoned and speaking order afresh after considering the explanation of the petitioner and the materials on record, enjoining the said authority also to grant adequate opportunity of hearing to the petitioner before passing the order.

The respondent no.3 thereafter has passed the fresh order on 06.11.2015 (Annexure-A to the show cause) rejecting the prayer of the petitioner as made. In his reply to the show cause the petitioner has not denied the fact that the order has been passed by the respondent no.3 on 06.11.2015 in pursuance to the direction of this Court as abovementioned. However, the petitioner in paragraph-8 of his reply to the show cause has endeavoured to establish that the said order passed by the respondent no.3 cannot be legally sustained on the grounds mentioned therein.

Mr.Parbat, learned senior counsel appearing for the petitioner has submitted that though the respondent no.3 has passed the order on 06.11.2015 after the remand of the matter by



this Court but the said order has not been passed in consonance with the observations and directions in the said remand order. Elaborating the submissions, it has been contended that though the original medical certificate was available with the petitioner but the respondent no.3 never asked the petitioner to produce the same and further the respondent no.3 has not considered the explanation furnished by the petitioner which was to be considered in view of the direction of this Court. It has, therefore, been submitted that the said order dated 06.11.2015 cannot be legally sustained and may be ignored, and the respondent no.3 be directed to pass a fresh order. The learned counsel has placed reliance of the decision of the apex court in the case of *State of Orissa Vs. Aswini Kumar Baliar Singh, (2006) 6 SCC 759*.

The learned counsel for the State-respondents, in his turn, has submitted that there is no scope for initiating a contempt proceeding against the respondent no.3 as the direction of this Court has been admittedly complied by passing a fresh order on 06.11.2015. It has been canvassed that the legality and validity of the said order cannot be cogitated by the petitioner in the present proceeding where the only material issue can be the willful disobedience of the direction of the Court. Controverting the submissions made on behalf of the petitioner, it has also been

argued that the prayer on behalf of the petitioner for ignoring the said order on one ground or other and issuing a direction for passing a fresh order is clearly misconceived in the facts and circumstances where the petitioner has adequate remedy under other jurisdictions of this Court.

After considering the submissions as well as the pleadings made on behalf of the parties, it is manifest that the direction as contained in the order dated 17.11.2014 passed in C.W.J.C. No. 11671/2013 has been complied by the respondent no.3 by passing a fresh order on 06.11.2015 (Annexure-A to the show cause). It is, therefore, evident that there is no disobedience committed by the respondent no.3 making him liable under the contempt jurisdiction of this Court. The submissions by the learned senior counsel for the petitioner centers around adjudicating the legal sustainability of the said order on various grounds including the ground that the specific direction of this Court to consider the explanation of the petitioner has been ignored. In the opinion of this Court, the legal validity of the order dated 06.11.2015 passed by respondent no.3 cannot be tested within the domain of contempt jurisdiction. It would be apt here to take into notice the dictum by a three judge Bench of the apex court in *Sudhir Vasudeva, Chairman & MD.ONGC Vs.*

M.George Ravishekaran, 2014 (2) SCALE 50 as follows:

“..The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the [Contempt of Courts Act, 1971](#). It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a

judgment or order or are plainly self evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same. Decided issues cannot be reopened; nor the plea of equities can be considered. Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above..."

(emphasis supplied)

The decision in the case of **Aswini Kumar Baliar Singh** (Supra) relied upon on behalf of the petitioner has been rendered in a different setting of facts and even there also it has been laid down that before issuing appropriate direction in a given

case the finding is required to the effect that the contemnors have disobeyed the order of this Court. In the present fact situation, this Court does not find itself persuaded to record such a finding.

In the ultimately eventuate, it is held that no contempt has been committed by the respondent no.3 as alleged. The present contempt petition is accordingly dismissed with liberty to the petitioner to pursue the remedy available to him in accordance with law for redressal of his grievances without being prejudiced by this order.

(V. Nath, J)

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