IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3338 of 2015
In
Civil Writ Jurisdiction Case No. 6227 of 2007

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Dr. Kalyan Kumar Biswas, son of Late Baidyanath Biswas, aged about 64 years, resident of Santosh Niwas Chattradhari Bazar, P.O. & P.S. Bhagwan Bazar, Town Chapra and District-Saran

.... Petitioner

Versus

1. The State of Bihar through P. Rajendra, Secretary, Urban and Housing Development, Government of Bihar
2. P.K.Singh, Accountant General(Audit), Bihar, Birchand Patel Marg, Patna
3. Azhar Jamal, the Examiner of Local Accounts(Local Audit Wing), Accountant General, Bihar, Patna
4. H.K.Singh, Assistant Examiner, Local Accounts, Accountant General, Bihar, Patna
5. Ravi Prakash Singh (Auditor), Examination of Local Accounts, Accountant General, Bihar, Patna
6. Vikash Kumar (Auditor), Examination of Local Accounts, Accountant General, Bihar, Patna
7. Ajay Kumar Rai, Executive Officer, Chapra Nagar Parishad, Chapra, Saran, Bihar.

.... Opp.Parties.

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Appearance :
For the Petitioner/s : Mr. Subroteswar De
For the Respondent/s : Mr. AC to GA-3
Mr. Indu Bhushan

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

20 05-07-2017 Heard Sri Subroteswar De, learned counsel for the petitioner, learned AC to Govt. Advocate no.3, Sri K.P.Gupta, learned counsel for the Accountant General as well as Sri Indu Bhushan, learned counsel, who has appeared on behalf of Opp.Party/Nagar Parishad, Chapra, Saran.

The present petition was filed with a prayer to initiate contempt proceeding against Opp.Parties on an allegation of wilful disobedience to an order dated 10.09.2013 passed in C.W.J.C.No.6227 of 2007. By the said order, the writ petition was disposed of without issuing any direction to any of the authorities. However, the Court had observed that in view of facts and circumstances, the Accountant General, Bihar may take appropriate decision in the matter.

The writ petition was filed with a prayer to expunge the petitioner's name from the surcharge list. A plea was taken that the petitioner at the relevant time was occupying Class-III post and he had not dealt with the file relating to payment of learned Advocate. An audit was conducted by a team of the Accountant General and team had prepared a list for initiating surcharge proceeding against few of the employees of Chapra Nagar Parishad.

Considering the nature of relief sought for in the writ petition, the writ court had not passed any direction, save and except observing for taking decision by the Accountant General.

In this case, number of show causes have been filed on behalf of Chapra Nagar Parishad as well as Accountant General. The Accountant General had taken a stand that in view of changed circumstances, decision was to be taken by the Government of Bihar. However, in the show cause filed by the parties, one fact had emerged that the record, on the basis of which audit report was prepared, was not available and this was also one of the reasons that no decision could be taken However, Sri Indu Bhushan, learned counsel for Nagar Parishad, Chapra submits that Empower Standing Committee of Nagar Parishad has already resolved not to take any action in respect of surcharge relating to payment made to learned counsel for Nagar Parishad.

In view of submission made by Sri Indu Bhushan, learned counsel for Nagar Parishad, Chapra as well as peculiar facts and circumstances, the Court is of the opinion that any step for recovery against the petitioner may not be permissible. Accordingly, the present petition stands disposed of.

(Rakesh Kumar, J)

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