

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7671 of 2011

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Manoj Kumar Thakur , s/o Late Chaudhary Radhika Raman Thakur,
resident of Radha Niwas, Bengali Tola, P.O. Laheria Sarai, Dist.
Darbhanga.

.... Petitioner/s

Versus

1. The State Of Bihar Through the Secretary, Department Of Law, Patna.
2. The Law Secretary, Govt. Of Bihar, Patna.
3. The Collector, Darbhanga.
4. The Senior In Charge Darbhanga Legal Section Cum Additional Collector Darbhanga.
5. The Public Prosecutor, Darbhanga Civil Court Darbhanga.
6. Manoj Kumar Thakur, Advocate Darbhanga Civil Court (Enrolment No. 4091/95 Of Bar Council Bihar, Patna) Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Narayan

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7 29-02-2016 Heard Sri Amrendra Narayan, learned counsel for the
petitioner and learned AC to AAG No. 11.

The petitioner who is an advocate of Darbhanga Civil Court has approached this court invoking its writ jurisdiction under Article 226 of the Constitution of India only with a prayer for quashing of Annexure – ‘6’ to the writ petition whereby the Additional Collector, Darbhanga has issued certain instructions to the Public Prosecutor, Civil Court, Darbhanga in respect of accepting the joining of one Additional Public Prosecutor.

It appears that the name of one Sri Manoj Kumar



Thakur having enrollment no. 4091/95 along with others were recommended for being appointed as Additional Public Prosecutor for a specified period. It has been claimed by the petitioner that he had also applied for being selected as Additional Public Prosecutor and his name was also recommended by the District Judge for being appointed as Additional Public Prosecutor. The petitioner is having enrollment no. 3585 of 1995. The petitioner is basically aggrieved with the last portion of the communication i.e. Annexure – ‘6’ whereby the petitioner was asked to explain as to under what circumstances even though he was not approved for being appointed as Additional Public Prosecutor he accepted joining as Additional Public Prosecutor. He was also noticed that due to such act of the petitioner why not step may be taken for cancelling his enrollment. The petitioner was asked to file explanation before the District Magistrate, Darbhanga. The petitioner thereafter filed a detailed representation clarifying the position that the name of the petitioner was also recommended by the District Judge and he after noticing the fact that the Advocate with petitioner’s name was approved for being appointed the petitioner gave joining but immediately after noticing the fact regarding the dispute the petitioner left to discharge his duty as Additional Public Prosecutor. Learned

counsel for the petitioner in presence of learned AC to AAG No. 11 by way of referring to the statement made in paragraph no. 5 and 8 of the counter affidavit filed on behalf of the respondent no. 3 and 5 submits that even the respondents have accepted that there was reason to believe that petitioner was also recommended for being appointed. For just decision in the matter it would be appropriate to quote paragraph no. 5 and 8 of the counter affidavit filed on behalf of the respondent no. 3 and 5 on 11th February 2016 as follows:-

“5. That, in the month of December 2006, applications were called from the interested Advocate for preparing a panel of Additional Public Prosecutor and the petitioner and respondent no. 7 both having same name i.e. Manoj Kuamr Thakur also applied for the same in the prescribed format of Bio-data.

8. That, the District & Sessions Judge, Darbhanga recommended Bio-data of Manoj Kumar Thakur having enrolment No. 4091/1995 and gave serial No. 78 at the top of Bio-data but in the list, enrolment no. 3585 of 1996 has been typed at serial no. 78 whereas the bio-data attached with such list for Sl. No. 78 of Manoj Kumar Thakur having enrolment no. 4091 /1995.”

Normally in view of the communication made in Annexure - ‘6’ it was not at all necessary to entertain the present

writ petition due to the reason that by Annexure - '6' the petitioner was only asked to file his explanation which he has already filed. Meaning thereby that till date no adverse order has been passed against the petitioner. Moreover in view of the fact as well as the statement made in paragraph no. 5 and 8 of the counter affidavit of the respondent no. 3 and 5 which has been quoted hereinabove the court is of the opinion that the petitioner had not intentionally accepted the joining but such step was taken due to the confusion which has arisen by some communication gap. Without recording anything in the order since the representation of the petitioner is already pending before the Additional Collector vide Annexure - '7' to the writ petition the writ petition is being disposed of with an observation that the Additional Collector may take appropriate decision in the matter and if possible drop any further action in view of the stand taken in the counter affidavit of the respondent no. 3 and 5.

The writ petition stands disposed of.

(Rakesh Kumar, J)

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