

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.170 of 2013

IN

Civil Writ Jurisdiction Case No. 5841 of 2008

=====

Satendra Kumar, son of Sri Yamuna Prasad, resident of village- Mosima Sarai,
Police Station – Ghosi, District – Jehanabad.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Jehanabad.
3. The District Education Officer, Jehanabad.
4. The Mukhia, Lakhawar Gram Panchayat, Ghosi, District – Jehanabad.
5. The Panchayat Secretary, Gram Panchayat, Lakhawar, P.S.- Ghosi, District-
Jehanabad.

.... Respondents

=====

Appearance :

For the Petitioner	:	Mr. Binod Kumar, Advocate
For the Respondent (State)	:	Mr. R.B. Prasad Yadav, AAG-11 Mr. Ashok Kumar Dubey, A.C. to AAG-11

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 10-08-2016

Heard Mr. Binod Kumar, learned counsel for the
petitioner and Mr. Ashok Kumar Dubey, learned A.C. to AAG-11 for
the State.

This application, under Article 226 of the Constitution of
India, has been filed for review of the judgment and order dated
17.1.2012 passed in C.W.J.C. No.5841 of 2008, whereby this Court in
consideration of the order passed by the Collector, Jehanabad dated
28.10.2007, whereby he had affirmed the termination of the petitioner
as Panchayat Shiksha Mitra, has not chosen to interfere with the order.
The Court, while taking note of the fact that in the changed
circumstances where the post of Shiksha Mitra has been abolished

under the Bihar Panchayat Elementary Teachers (Appointment and Service Condition), Rules 2006 and process for filling vacancies on post of Panchayat Shikshak would be initiated, has granted the petitioner age relaxation in case, he would apply against the post of Panchayat Shikshak.

Mr. Binod Kumar, learned counsel appearing on behalf of the petitioner submits that this petitioner along with some others including one Prem Prakash had earlier come before this Court questioning the termination in C.W.J.C. No.10953 of 2006 and the matter was remitted for fresh consideration by the District Magistrate, Jehanabad. He submits that on remand, the termination of the petitioner and the said Prem Prakash was upheld by the District Magistrate, Jehanabad vide order passed on 28.10.2007 and which was put to question before this Court by the petitioner in C.W.J.C. No.5841 of 2008 and the said Prem Prakash in C.W.J.C. No.6805 of 2008.

It is argument of Mr. Binod Kumar, learned counsel for the petitioner that while a Bench of this Court vide order dated 28.7.2011 remitted the matter of Prem Prakash for consideration by the appellate authority and who, in consideration of the circumstances, have upheld not only the appointment of said Prem Prakash as a Panchayat Shiksha Mitra but has also declared that with effect from 1.7.2006, the said Prem Prakash has become a Panchayat Teacher in



terms of Rule-20(iii) of the Rules. It is the argument of Mr. Binod Kumar, learned counsel for the petitioner that in so far as the case of the present petitioner is concerned, the Bench did not choose to interfere with the order of the District Magistrate, Jehanabad dated 28.10.2007. According to Mr. Binod Kumar, the same order of the District Magistrate dated 28.10.2007 when put to question before this Court by the petitioner and Mr. Prem Prakash in separate writ petitions, has resulted in two different orders. On such grounds, Mr. Binod Kumar prays for review of the order passed by this Court in C.W.J.C. No.5841 of 2008 and for its disposal in terms of the order passed in C.W.J.C. No.6805 of 2008.

The argument of Mr. Binod Kumar has been contested by Mr. Dubey, learned counsel appearing for the State, who submits that the petitioner in substance seeks a re-hearing of the writ petition in the garb of review, which is impermissible.

I have heard learned counsel for the parties and I have perused the records.

The scope of review of an order passed on merits, is rather circumscribed and unless there is any error apparent on the face of record or there is a discovery of any material which even upon exercise of due diligence by the petitioner, was not within his knowledge, that such power can be exercised. Such is not the case here and even when the order passed on the writ petition filed by

Prem Prakash bearing C.W.J.C. No.6805 of 2008 dated 28.7.2011, was much in existence when the writ petition filed by the present petitioner came up for consideration on 17.1.2012 but the petitioner did not choose to bring the same to the notice of the Court for whatever reason that may be. The petitioner in fact prays for recall of the order passed on the writ petition on grounds that the writ petition filed by Prem Prakash had been remanded by other Bench and which resulted in an order in his favour.

I am afraid the issue raised by Mr. Binod Kumar for seeking a review is not within the parameter of the well settled principles on review, requiring indulgence. The petitioner, if so advised, can move the appropriate forum to question the order under review but under the circumstances discussed, I am not persuaded for review the order passed on the writ petition.

The review petition is, accordingly, disposed of.

(Jyoti Saran, J)

N.H./- Vats/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	18.08.2016
Transmission Date	