

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.248 of 2017  
IN  
Miscellaneous Jurisdiction Case No. 3338 of 2016**

- =====
1. The State of Bihar through the State Transport Commissioner, Department of Transport, Govt. of Bihar, Patna.
  2. The State Transport Commissioner, Department of Transport, Government of Bihar, Patna.
  3. The Joint Transport Commissioner, Department of Transport, Government of Bihar, Patna.
  4. The Principal Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna.
  5. The Deputy Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna.
  6. The District Transport Officer, Patna.

.... .... Appellant/s

Versus

Madan Mohan Lal Singh, S/o Late Ramashish Singh, Resident of village Kashipur,  
P.O. Rajapakri, P.S. Rajapakari, District Vaishali, Hajipur.

.... .... Respondent/s

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**Appearance :**

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|--------------------|---|--------------------------------------------------------------------|
| For the Appellants | : | Mr. Ajay Kumar Rastogi, AAG-10<br>Mr. Parijat Saurav, AC to AAG-10 |
| For the Respondent | : | Mr. Satya Prakash Srivastava, Advocate                             |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 17-04-2017

Having heard learned counsel for the parties, we are of  
the considered view that in a contempt proceeding the learned Writ  
Court could not have passed the order in question. If the learned Writ



Court found that Annexure 2 to the I.A. No.1109 of 2017 dated 14.11.2016 was passed to overreach the order passed in the earlier writ petition for considering the case of the petitioner for regularization, the learned Writ Court could have punished the contemnor for the same but could not in the garb of taking action in a contempt proceeding direct for reconsideration or regularization of his service. This could be done only in a proceeding under Article 226 or 227 of the Constitution by invoking his contempt jurisdiction. The learned Court could not have gone into the merit of the order dated 14.11.2016 (Annexure 2 to the I.A. No.1109 of 2017), in a contempt proceeding found fault with it and thereafter directed for regularization, when in the original writ petition the order was to consider petitioner's case for regularization.

This, in our considered view, is not within the power of the learned contempt court. The contempt court could take action for contempt against the officer concerned but could not quash the order dated 14.11.2016 or pass any order as a consequence of granting relief in the matter of considering the case of the employees for regularization. In doing so, we are of the considered view that the learned contempt court has acted in excess of jurisdiction and has in fact in a contempt proceeding tried to exercise his jurisdiction under Article 226 of the Constitution. This was not permissible.



Accordingly, we allow this appeal, quash the order dated 23.11.2016 passed by the learned Writ Court in M.J.C. No.3338 of 2016 and grant liberty to the respondent to challenge the order dated 14.11.2016 (Annexure 2 to the I.A. No.1109 of 2017) and any other grievance in a proper proceeding in accordance with law.

**(Rajendra Menon, CJ)**

**(Sudhir Singh, J)**

Narendra/-

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| AFR/NAFR          | N.A.F.R.   |
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