

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1357 of 2017

IN

Miscellaneous Jurisdiction Case No. 1808 of 2014

- =====
1. The State of Bihar
 2. Mr. Jairam Lal Meena, I.A.S., Agriculture Production Commissioner, Department of Agriculture, Government of Bihar, New Secretariat, Patna.
 3. Mr. Vivek Kumar Singh, I.A.S., Secretary, Agriculture Department, Government of Bihar, New Secretariat, Patna.
 4. Mr. Navin Chandra Jha, I.A.S., Director, Horticulture, Bihar, Pant Bhawan, Bailey Road, Patna.

.... Appellants

Versus

Binay Kumar Shukla, son of Late Girija Nand Shukla, resident of K-4, Chandra Vihar Colony, Ashiyana Digha Road, Patna, presently posted as Sub-Divisional horticulture Officer, Jehanabad.

.... Respondent

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Appearance :

For the Appellants : Mr. Ravish Chandra, Advocate

For the Respondent : Mr. Jagannath Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 08-11-2017

We have heard learned counsel for the parties at length and we find that this appeal has been filed against an interlocutory order passed in contempt proceedings on 29.08.2017. The order impugned reads as under :-

“Only after this Court has taken serious note of the matter and a direction was issued to initiate proceeding for willful non compliance of the order passed by this Court, that the opposite parties have come up with the pretext that the petitioner is wanting in educational qualification. It is a purely dilatory



tactics as the action they have taken presently, is based, upon the new rule which came into force much after the period of two months as was allowed by this court for compliance of the order passed with regard to the promotion of the petitioner.”

On a perusal of the original order passed in the writ petition which was subject matter of consideration before the contempt Court and disobedience of which was complained in the contempt proceeding, we find that on 20th January, 2014, a Bench of this Court in Civil Writ Jurisdiction Case No.454 of 2014 disposed of the writ petition in the following manner :

“Learned counsel for the petitioner submits that, in spite of the recommendation made in favour of the petitioner and others, vide letter no.29 dated 07.01.2013 by the Director, Horticulture, the Department is not taking steps for their promotion.

In the circumstances, this writ application is disposed of with a direction to the Agriculture Production Commissioner to take cognizance of the said letter of the Director and ensure that the final decision in accordance with law is taken in the matter positively within two months from the date of receipt/production of a copy of this order.”

Even though the direction was given to comply with the order, it is seen that nothing was done and after filing of the contempt proceeding in the year 2014 it was only on 27.06.2017 that a



Departmental Promotion Committee met and took a decision in the matter and rejected the claim of the petitioner. Even though it was vehemently argued before us by the petitioners that the contempt Court cannot interfere into the merits of the case and issue further direction in the contempt proceeding in view of the law laid down in the Supreme Court in the case of **Midnapore Peoples' Co-operative Bank Limited and others vs. Chunilal Nanda and others**, 2006(5) SCC 399, learned counsel for the respondents argued that the present only contempt Court has only issued a show cause notice primarily on account of the fact that as a delaying tactics the matter was kept pending for more than three years and again on whimsical ground the petition has been dismissed. He argued that only a show cause notice has been issued and on the apprehension that the learned contempt Court may interfere into the merits of the proceeding in the DPC which, according to the respondents are not permissible, in view of law laid down in the case of **Midnapore Peoples' Co-operative Bank Ltd.** (Supra), learned counsel invites out attention to the observation made in the impugned order by the learned contempt Court which speaks that for rejection of the case on the pretext of want of educational qualification is based on a Rule which came into force much after the period of two months which was granted in the original petition on 20th January, 2014.



Having considered to various aspect of the matter, we are considered of the view that at this stage, it is not necessary to interfere into the matter, the learned contempt Court has only issued a show cause notice. The petitioners should file their show cause before the contempt Court and we are confident that the contempt Court after taking note of the show cause shall proceed in accordance with law. That apart, the question with regard to the jurisdiction available to the contempt Court to interfere into the merit of a dispute i.e. finding of the DPC and issue a further order is left open to be considered at an appropriate stage if required.

With the aforesaid observation, we dispose of the matter.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

N.H./-

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CAV DATE	N/A
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