

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5807 of 2016

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Muzaffarul Bari Ansari, Son of Late Hakim Abdullah, Resident of Village - Khagra
Kadam, Police Station - Kishanganj, District - Kishanganj.

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Main Secretariat, Patna.
2. The Commissioner and Secretary, Department of Social Welfare, Government of Bihar, Main Secretariat, Patna.
3. The Director, Directorate of I.C.D.S., Indira Bhawan 2nd Floor, Boring Road, Patna.
4. The Commissioner and Secretary, Department of Finance, Government of Bihar, New Secretariat, Patna.
5. The Secretary, Department of Personnel and Administrative Reforms, Government of Bihar.
6. The Incharge Officer, Establishment, Directorate of I.C.D.S. Indira Bhawan, Bihar, Patna.
7. The District Magistrate, Katihar.
8. The District Programme Officer, Child Development Project Officer, Katihar.
9. The Child Development Project Officer, Korha, District - Katihar.
10. Managing Director, Bihar State Construction Corporation Limited, Patna under Irrigation Department, Govt. of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Md. Aslam Ansari, Advocate

For the Respondent/s : Mr. Alka Verma, AC to SC-17

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 10-04-2017

Learned counsel for the petitioner submitted that a



writ application bearing C.W.J.C. No. 10016 of 2007 was filed before this Court on behalf of the Bihar State Government Employees Association through its Secretary, Welfare as well as Director, Integrated Child Development Scheme praying therein to accord the benefit of permanent absorption to the member of the association and others in the light of provision contained in letter No. 447 dated 24.08.1996. He contended that in the said writ petition, this Court had directed the respondents to pass necessary orders for absorption of all the employees of the association and they were further directed not to repatriate those employees to defunct Boards, Corporations, Public Sector Undertakings and Enterprises etc. which were their parent department. He submitted that it was also directed in the writ petition that on superannuation from the posts, the employees of the association shall be paid their salary, pensionary benefits etc. treating to have retired on the same post of the State Government in which they were working. He contended that the judgment of writ court dated 06.04.2011 was challenged by filing an intra-court appeal in L.P.A. No. 1831 of 2011, which was dismissed vide order dated 19.06.2012 by a Division Bench of this Court. The State challenged the Division Bench order passed in the aforesaid L.P.A. No. 1831 of 2011 before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No.



28310-28311 of 2012 vide order dated 05.10.2012 the Special Leave to Appeal was also dismissed.

2. Learned counsel for the petitioner further submitted that since the judgment passed by the learned Single Judge in C.W.J.C. No. 10016 of 2007 is not being complied, which had attained finality after dismissal of Special Leave to Appeal by the Supreme Court, the instant writ application has been filed by the petitioner, who was also a member of the petitioner Bihar State Government Employees Association and, hence, entitled to the reliefs granted in the aforesaid C.W.J.C. No. 10016 of 2007.

3. Learned counsel for the State has raised a preliminary objection regarding maintainability of the writ petition. She has contended that if the petitioner was a member of the Bihar State Government Employees Association then, in that case, the second writ application for the relief which has already been granted would not be maintainable.

4. I find substance in the argument of the learned counsel for the State. In case the petitioner is aggrieved due to non-compliance of the order passed by the writ court, which attained finality, the remedy lies in filing a contempt application, but not another writ application as in the earlier writ application Bihar State Government Employees Association had presented the case of all



the members of the association.

5. In that view of the matter, the writ application is disposed of as not maintainable.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2017
Transmission Date	NA

