IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2067 of 2011

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1. Shyam Bihari Chaubey son of late Kripal Chaubey.
2. Ram Sunder Chaudhary son of Sri Bigu Chaudhary.
3. Uma Shanker Chaudhari son of Shiv Lakhan Chaudhary
4. Hare Ram Sharma son of late Baijnath Sharma
5. Mahendra Nath Singh son of Sita Ram Singh
6. Sri Narayan Mishra son of late Kedar Nath Mishra
7. Sri Ram Pandey son of late Dudh Nath Pandey
8. Dr. Sri Kant Chaubey son of Sri Uma Shanker Chaubey.
9. Suresh Upadhyay son of late Saryug Prasad Upadhyay
10. Shidheshwar Tiwari son of Ram Nath Tiwari
11. Pashupati Paswan son of late Shivbalak Paswan
12. Ganga Prasad Pandey son of Trivedi Pandey
13. Dharnidhar Chaubey son of late Shiv Shankar Chaubey
14. Binod Kumar Gupta son of Sri Yogendra Prasad Gupta
15. Shivmangal Singh son of Radha Kisun Singh
16. Ramji Prasad son of late Sri Ram Prasad
17. Shyam Bihari Pandey son of Sri Ram Pratap pandey
18. Satya Narain Chaurasiya son of late Ram Chandra Chaurasia.
19. Badri Narayan Singh son of Parikha Sah
20. Saroj Ojha wife of Bhupendra Nath Ojha
21. Bhuneshwar Mishra son of Shiv Kumar Mishra
22. Dinanath Singh son of late Ramdayal Singh
23. Triloki Nath Tiwari son of Girija Nand Tiwari
24. Arun Kumar Tiwari son of late Jori Lal Tiwari
25. Awadh Bihari Singh son of late Ram Darash Singh
26. Ghanshyam Dubey son of late Ram Niwas Dubey
27. Ram Dular Singh son of Ramnath Singh
28. Madhuri Devi wife of Ram Chandra Mishra
29. Indu Kumari wife of Kashi Nath Mishra
30. Bijay Shankar Pandey son of late Baleshwar Pandey
31. Narbdeshwar Upadhyay son of Banarsi Upadhyay
32. Baban Thakur son of Late Damri Thakur
33. Ramashray Singh son of Late Shivdhari Singh
34. Dr. Rajendra Prasad son of late Anant Verma
35. Dwarika Nath Pandey son of late Sudama Dubey

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All are working in Govt. Dhanwantari Ayurvedic College, Ahirauli, Buxar.

… Petitioners

Versus

1. The State Of Bihar
2. Sri Amarjeet Sinha, Secretary, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna (Bihar).
3. Sri Ram Kumar Pandey, Additional Secretary, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna (Bihar).
4. Sri Vishwa Mohan Singh, Director, Deshi Chikitsa, Government of Bihar, Patna (Bihar).
5. Sri Tej Narayan Chaubey, Principal, Government Dhanwantri Ayurvedic College, Ahirauli, Buxar (Bihar).

… Opp. Parties

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Appearance :
For the Petitioner/s : Mr. Sanjay Pandey
For the Respondent/s : Mr. Devendra Kr. Sinha AAG2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 16-01-2017

Heard learned counsel for the petitioners and counsel for the State.

In this case, the petitioners are seeking initiation of contempt proceeding in connection with non/wrong implementation of the order dated 12.08.2010 passed in C.W.J.C. No. 7714 of 2012 which was disposed of by this Court with a direction to hold an enquiry and arrive to a finding to the status of appointment and their continuation. It will be relevant to quote relevant portion of the order which reads as follows:-

"In the opinion of this Court, the issue of payment of

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salary has two clear component namely, payment of arrears and current salary. The arrears of salary for the period the petitioners or some of them have continued in service has to be adjudicated and decided by the authority in the light of the report of their working and/or entitlement. There could be no a blanket stay for payment of salary of the persons whose service were not even terminated. The other aspect which would really make the case of the petitioners at least worth consideration is that they had admittedly received payment of salary for the interregnum period from the funds of the State Government and thus it would not be possible to hold that they would become disentitle for payment of salary either for the earlier period or the later period unless their services were never recognized by the authorities. All these aspects therefore have to be looked into by the Director Indigenous Medicine, who upon receipt of individual representation by the petitioners enclosing the proof of their working would take a decision for payment of salary for the remaining period for which this writ petition has been pressed by the petitioners.

Such decision however must be taken by the Director, Indigenous Medicine within a period of three months from the date of receipt of representation of the petitioners along with a copy of this order and necessary payment, if any, be also made to them in next three months."

In view of the aforesaid direction, the respondent authority has passed an order adverse to the interest of the present petitioners.

Learned counsel for the petitioners submits that the order is not in letter and spirit and is dehors to the fact and law of the case but, the question is that the substantive matter can only be looked into in the proper proceeding, not in the contempt proceeding.

In that view of the matter, the petitioner, if so advised,

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may challenge the final order passed against him in a proper proceeding.

With the aforementioned observation, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.01.2017
Transmission Date	

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