

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3811 of 2014

IN

Civil Writ Jurisdiction Case No. 9425 of 2011

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Ali Ahmad Son of Late Abdul Samad Resident of Anwar Colony Umar Daraz
(Umar Dargah) Lane, Jalla Gali, Near Nityanand Ka Kunwar, P.S.- Khajekalan
District - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Urban Development Department, Govt. of Bihar, Patna
namely Sandep Poundrik
3. The Patna Municipal Commissioner through its Municipal Secretary, Patna
namely Susri Arti
4. The Municipal Commissioner, Patna Municipal Corporation, Patna namely Sri
Kuldeep Narayan
5. The Additional Municipal Commissioner (Establishment) Patna Municipal
Corporation, Patna namely Sri Prabhu Ram

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Prasad Singh

For the Respondent/s : Mr. YOGENDRA PD. SINHA

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 18-10-2017

The 21 petitioners including the present
applicant Ali Ahmad filed the writ petition in question being Civil
Writ Jurisdiction Case No. 9425 of 2011 and it was their case before
the Writ Court that the Municipal Corporation, Patna on 27.11.2010,
vide Agenda No. 554 had resolved and adjusted to regularize 21
employees, the petitioner therein, and in spite of the resolution passed



on 27.11.2010 and representation filed, no action was taken.

Learned Writ Court, when it took up the matter had found that more than a year has passed, the matter has been kept pending and no counter affidavit has been filed. Taking note of the resolution No. 554 dated 27.11.2010, the writ petition was disposed of with the following directions:-

“In the aforesaid facts and circumstances this writ petition is allowed and the authorities of the Corporation are directed to implement resolution no. 554 of the Board of the Corporation communicated through letter no. 2977 issued on 27.11.2010/02.12.2010 under the signature of Municipal Commissioner (Annexure-1) and pass necessary order in that regard positively within two months from the date of receipt/production of a copy of this order.”

Inter alia contending that in spite of the order passed, the petitioner has not been regularized, whereas certain other persons were considered for regularization. This application has been filed for initiating action for contempt.

The Municipal Corporation has filed the show cause and on a perusal of the show cause, it is seen that even though the resolution was passed with regard to 21 employees but after the orders passed by this Court, when the case for implementing the resolution was taken up, it was found that 19 employees are entitled for adjustment and, therefore, they were granted adjustment. As far as



the present petitioner is concerned, it was found that he was already disengaged from work with effect from 25.10.2011 and when the petition was heard and direction was issued by this Court on 05.03.2012, he was not working. It is stated that as the counter affidavit was not filed by the Corporation and the petitioner also on 05.03.2012 did not disclose the fact about his disengagement, the Corporation could not press the correct fact before this Court and as far as the present petitioner is concerned, due to his disengagement, no further action is required to be taken and he is not entitled for consideration of the case for regularization as he was not working after 25.10.2011.

Keeping in view the aforesaid reasons indicated in the show cause filed by the respondents and considering the fact that petition was disposed of without considering this aspect of the matter and the only direction given in the writ petition was to implement the resolution and pass necessary orders in this regard and as respondents have given reason for not regularizing the present petitioner, this Court does not deem it appropriate in the facts and circumstances that has come on record to initiate action for contempt.

In case the benefit of the circular of the resolution is not correct, it is for the petitioner to challenge the said action, in accordance with law, but now in the facts and circumstances



that has come on record, this Court is not inclined to initiate or invoke its contempt jurisdiction.

The application stands disposed of with the aforesaid liberty to the petitioner.

(Rajendra Menon, CJ)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01/11/2017
Transmission Date	NA

