

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.3913 of 2014**

**In**  
**Miscellaneous Jurisdiction Case No.4604 of 2013**

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Shivanand Shukla, Son of late Ram Bachan Shukla, resident of Village Sajjan  
Dihara, P.S. Kargahar, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

The State Of Bihar & Ors

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rameshwar Singh, Advocate  
For the Respondent/s : Mr. Balram Kapri, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**ORAL ORDER**

3      21-09-2017

This application has been filed for restoration of M.J.C. No.4604 of 2013 which has been dismissed for non-compliance with the peremptory order dated 16.7.2014. This M.J.C. No.4604 of 2013 was filed complaining breach and disobedience of an order passed by a Bench of this Court on 10.10.2012 in C.W.J.C. No.18383 of 2012.

To consider the question as to whether any useful purpose would be served by restoring the M.J.C. and initiating action for contempt, this Court took note of the order passed on 10.10.2012 in C.W.J.C. No.18383 of 2012 and on going through the aforesaid order it is seen that the petitioner had filed the writ petition seeking a direction for his appointment on the vacant post of Lecturer of Psychology in Beni Singh College, Hatta, Chenari, District- Rohtas. The College in question had



recommended for his appointment and, in the meanwhile, the Bihar Universities Act was amended. As a consequence thereof, the recommendation in favour of the petitioner could not be implemented and action had to be taken by initiating process of appointment under the amended provision. Taking note of the aforesaid, the writ petition was disposed of in the following manner:

“Upon hearing learned counsels for the parties and considering the nature of the issue involved, this Court is unable to pass any order in favour of the petitioner for his appointment on the post based on the recommendation of the Bihar College Service Commission of the year 1999. However, if the present Selection Committee is inclined to give weightage/preference to the petitioner for having duly qualified and recommended by the then Bihar College Service Commission, it shall be well within the discretion of the Selection Committee to give such preference/priority.

This writ application accordingly, stands disposed off.”

A perusal of the aforesaid order would go to show that the Writ Court has clearly indicated in the order that the Court is unable to pass any positive order in favour of the petitioner for granting him appointment based on the earlier recommendation made by the College Service Commission in the year 1999.



However, it was only directed that the Selection Committee in its discretion may give preference or priority to the petitioner.

Now it is the contention of the petitioner that the Selection Committee is not exercising its discretion in favour of the petitioner and, therefore, contempt of the order is committed. Once a mandamus in the writ petition was not issued, the matter was left to the discretion of the Selection Committee and if the Selection Committee has refused to exercise its discretion, it would not amount to contempt of Court and, therefore, no useful purpose would be served by allowing this application and restoring M.J.C. No.4604 of 2013 to its original file and, therefore, taking note of the totality of the facts and circumstances as indicated hereinabove, this application is dismissed.

However, liberty shall be available to the petitioner to initiate fresh proceedings in accordance with law in case he is aggrieved with regard to the selection and appointment in question.

**(Rajendra Menon, CJ)**

K.C.Jha/-

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