

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13035 of 2016

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1. Upendra Prasad son of Sri Rajeshwar Prasad, resident of Village-
Gangachak, P.S. Bikram, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The Inspector General of Registration, Government of Bihar, Patna.
3. The Collector-cum- District Registrar, Patna
4. The Sub Registrar, Bikram, District- Patna
5. The District Sub Registrar, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13046 of 2016

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1. Satendra Kumar son of Sri Rajeshwar Prasad, resident of Village-
Gangachak, P.S. Bikram, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The Inspector General of Registration, Government of Bihar, Patna.
3. The Collector-cum- District Registration Officer, Patna
4. The Sub Registrar, Bikram, District- Patna
5. The District Sub Registrar, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13155 of 2016

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1. Qamruzzama Son of Late Abdul Khair Resident of Village- Muslim
Raghopur, P.S.- Bihta, P.O.- Taranagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Inspector General of Registration, Government of Bihar, Patna.
3. The Collector-cum-District Registrar, Patna.
4. The Sub-Registrar, Bikram, District- Patna.
5. The District Sub Registrar, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13289 of 2016



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1. Md. Serajuddin Son o Late Habibullah Resident of Village and P.S. Bikram, District-Patna

.... Petitioner/s

Versus

1. The State of Bihar, through the principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The Inspector General of Registration, Government of Bihar, Patna.
3. The Collector cum District Registrar, Patna
4. The Sub Registrar, Bikram, District-Patna
5. The District Sub Registrar, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13383 of 2016

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1. Md. Manjur Alam Son of Late Abdul Gafur Resident of Village - Aspura, P.S.Bikram, District-Patna

.... Petitioner/s

Versus

1. The State of Bihar, through the principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The Inspector General of Registration, Government of Bihar, Patna.
3. The Collector- cum -District Registrar, Patna
4. The Sub- Registrar, Bikram, District-Patna
5. The District Sub Registrar, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13401 of 2016

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1. Raghu Nath Yadav @ Raghu Nath Singh son of Late Baiju Yadav resident of Village - Lodipur, P.S. - Naubatpur, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Inspector General of Registration, Government of Bihar, Patna.
3. The Collector-cum-District Registrar, Patna.
4. The Sub Registrar, Bikram, District - Patna.
5. The District Sub Registrar, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13617 of 2016

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1. Anil Kumar Verma Son of Sri Awadhesh Kumar resident of village -



Sanchipatti Chakshan, Abdul Hai, P.S. Hajipur Town, Distt. - Vaishali

.... Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
- 2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
- 3. The Inspector General of Registration, Registration, Excise and Prohibition Department, Government of Bihar, Patna
- 4. The Assistant Inspector General of Registration, Registration, Excise and Prohibition Department, Government of Bihar, Patna
- 5. The District Magistrate - Cum - District Registrar, Vaishali at Hajipur
- 6. The District Sub Registrar, Registry Office, Hajipur, Distt. - Vaishali

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13646 of 2016

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- 1. Neeraj Kumar Swami, Son of Akhilesh Kumar Singh, Resident of Village- Gangachak, P.S. Bikram, District- Patna.

.... Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
- 2. The Inspector General of Registration, Government of Bihar, Patna
- 3. The Collector-cum-District Registrar, Patna
- 4. The Sub Registrar, Bikram, District- Patna
- 5. The District Sub Registrar, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13652 of 2016

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- 1. Satish Kumar Gupta son of Late Ram Prasad Gupta resident of Village- Tara Nagar, P.S.- Bihta, District- Patna.

.... Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
- 2. The Inspector General of Registration, Government of Bihar, Patna.
- 3. The Collector-cum-District Registrar, Patna.
- 4. The Sub-Registrar, Bikram, District- Patna.
- 5. The District Sub Registrar, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13678 of 2016



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1. Md. Jiyaar Rahman son of Habib Rahman, Resident of Village- Muslim
Raghopur, P.S - Bihta, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise
and Prohibition Department, Government of Bihar, Patna.
2. The Inspector General of Registration, Government of Bihar, Patna.
3. The Collector- cum- District Registrar, Patna.
4. The Sub Registrar, Bikram, District- Patna.
5. The District Sub Registrar, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13693 of 2016

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1. Santosh Kumar son of Sri Arvind Kumar resident of Village-Bikram,
P.S.-Bikram, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar, through the principal Secretary, Registration, Excise
and Prohibition Department, Government of Bihar, Patna
2. The Inspector General, of Registration, Government of Bihar, Patna
3. The Collector- cum -District Registrar, Patna
4. The Sub Registrar, Bikram, District-Patna
5. The District Sub Registrar, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13727 of 2016

=====

1. Md. Aftab Alam Son of Md. Manjur Alam Resident of village - Aspura,
P.S. Bikram, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Registration, Excise
and Prohibition Department, Government of Bihar, Patna
2. The Inspector General of Registration, Government of Bihar, Patna
3. The Collector - Cum - District Registrar, Patna
4. The Sub - Registrar, Bikram, District Patna
5. The District Sub - Registrar, Patna

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13767 of 2016

=====

1. Santosh Kumar Son of Sri Rajeshwar Lal, Resident of Village- Ganga



Chok, P.S.- Bikram, District- Patna.

.... Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
- 2. The Inspector General of Registration, Government of Bihar, Patna.
- 3. The Collector-cum- District- Registrar, Patna.
- 4. The Sub Registrar, Bikram, District- Patna.
- 5. The District Sub Registrar, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13800 of 2016

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- 1. Satyendra Kumar Singh Son of Kamla Singh Resident of village- Bidauli, P.S Bhagwanganj District Patna.

.... Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
- 2. The Inspector General of Registration, Government of Bihar, Patna.
- 3. The Collector-cum-District Registration Officer, Patna.
- 4. The Sub Registrar Bikram, District Patna.
- 5. The District Sub Registrar, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13857 of 2016

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- 1. Suryadev Singh Son of Late Indrdev Singh resident of Village- Bela, P.S.- Sigori (Pligang), District- Patna.

.... Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
- 2. The Inspector General of Registration, Government of Bihar, Patna.
- 3. The Collector-cum-District Registrar, Patna.
- 4. The Sub Registrar, Bikram, District- Patna.
- 5. The District Sub Registrar, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.13869 of 2016

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- 1. Ram Deo Prasad Singh, Son of Late Kishun Prasad, Resident of Village- Majhanpura, P.S.- Bikram, District- Patna.

.... Petitioner/s



Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Inspector General of Registration, Government of Bihar Patna.
3. The Collector- cum- District Registrar, Patna.
4. The Sub Registrar, Bikram, District- Patna.
5. The District Sub Registrar, Patna.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.13965 of 2016

1. Sanauallah, Son of Late Samsul Hoda, Resident of Village- Muslim Raghapur, P.S - Bihta, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Inspector General of Registration, Government of Bihar, Patna.
3. The Collector-cum- District Registrar, Patna.
4. The Sub Registrar, Bikram, District- Patna.
5. The District Sub Registrar, Patna.

.... Respondent/s

Appearance :

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|----------------------|---|--|
| For the Petitioners | : | Mr. Alok Kumar Sinha, Sr. Advocate
Mr. Anil Kumar, Sr. Advocate
Mr. Bhola Kumar
Mr. Ashish Sinha
Mr. Ujjawal Kumar Singh
Mr. Neeraj Kumar Gupta |
| For the Respondent/s | : | Mr. Y.P. Sinha, A.A.G.-7
Smt. Binita Singh, S.C. 28
Mr. Mujtabaul Haque, G.P.-12
Mr. Birju Prasad, G.P.-13
Mr. Kameshwar Kumar, G.P.-17
Mr. Kaushal Kumar Jha, AAG-8
Mr. Sanjay Prasad, A.C. to A.A.G.-4
Mrs. Kiran Sinha, A.C. to A.A.G. -14
Mr. Madan Moha, A.C. to S.C.-5
Mr. Kumar Manish
Mr. Nishant Kumar Jha, A.C. to S.C.-28
Mr. Wasi Ahmad Khan, A.C. to S.C. 25
Mr. Arbind Kumar, A.C. to G.P.-17
Mr. Shakib Ayaz, A.C. to G.P.-12
Mr. Ashok Kumar, A.C. to G.P.-13
Mr. H.S. Goldie, A.C. to G.P.-6 |

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER



2 12-09-2017 Heard learned Senior Counsel for the petitioners and learned counsel appearing on behalf of the State.

The present batch of writ applications has been filed by the petitioners in C.W.J.C. No. 13035 of 2016 (Upendra Prasad Vs. The State of Bihar & Ors.) and other petitioners of analogous cases, challenging the order of the Collector-Cum-District Registrar, Patna, in the Sub-registry office of Bikram, whereby and whereunder, the Collector-cum-District Magistrate, Patna has issued orders under the Bihar Deed-Writers Licence Rules 1996, cancelling by means of various orders (which have been appended to the respective writ applications and are to be noted against their respective cases), the licences issued to them for functioning as Deed Writers.

It is submitted by learned Senior Counsel appearing on behalf of the petitioners that the petitioners have been conducting their profession as deed-writers at Bikram Sub-registry Office, in terms of the licence issued to them, but all of a sudden, without any show-cause having been issued to them, their respective licences have been cancelled on the sole ground that they had participated in a *Hartal* by which they had absented themselves from duty on two consecutive dates.

Learned Senior Counsel for the petitioners further



submits that the licence of the petitioners can be cancelled only by following the rules as laid down under Clause 2 of Rule 13 of the Rules and only after giving show-cause against the proposed cancellation, but in the instance cases, neither was any show-cause notice ever issued or given to or any explanation called for from them and without following the said Rules, licences have been cancelled which is not only violative of principle of natural justice, but also against the mandates and provisions of the Rules and Article 19(g) of the Constitution of India. He, thus, submits that the impugned orders in the entire batch of writ applications stands vitiated and are fit to be set aside.

Learned Senior Counsel has drawn my attention to Rule 13 of the Bihar Deed Writers Licensing Rules, 1996, which is quoted hereunder for ready reference:-

“13. Cancellation and suspension of licence.-(1) The Licensing Authority may at any time suspend or cancel the licence of a document writer or apprentice on any of the following grounds:-

- (a) Violation of any of the rules or the conditions of the licences.
- (b) Failure to attend the registration office for a period exceeding six months without a reasonable cause or without the leave or permission of the licensing authority or the registering officer within whose jurisdiction he has been practicing.

(2) No order under sub-rule(i) shall be passed, unless the document writer or the apprentice, as the case may be, has been asked to show cause against the proposed suspension or cancellation of the licence and the cause shown by him has been duly considered by the Licensing Authority.”



It is, thus, evident that cancellation and suspension of licences of a document writer or apprentice can be made only on the basis of the provisions as enumerated in Rule 13(1) (a) and (b) and not for any other ground. Rule 13(a) clearly states that violation of any rules or the conditions of the licences or failure to attend the registration office for the period exceeding six months without a reasonable cause or without the leave or permission of the licensing authority or the registering authority within whose jurisdiction he has been practicing, can be the grounds for suspension/cancellation of a licence.

Furthermore, Rule (2) clearly provides that no order under sub-rule (i) can be passed, unless the document writer or the apprentice, as the case may be, has been asked to show cause against the proposed cancellation or suspension of the licence and the cause shown by him has been duly considered by the Licensing Authority.

It is, thus, evident from a bare perusal of the above Rules that the Licensing Authority and the Collector has passed the impugned orders without following the statutory provisions and in clear violation thereof. It is thus a clear transgression of the Rules and cannot be sustained by any stretch of imagination.

Learned counsel appearing on behalf of the State



submits that there is a provision of appeal before the authorities. However, this Court is not inclined to appreciate such a submission as in view of the fact that where statutory wrong has been occasioned, the petitioners may not be relegated to the appellate authority for deciding the fates.

In one of the writ applications, a stand has been taken that since the petitioners had abstained from duties and had caused disturbances, a Gandhi Maidan P.S. Case No. 120 of 2016 dated 11.04.2016 has been registered under Section 147, 149, 448, 427 and 353 of the Indian Penal Code. However, the fate of such case would not extinguish the right of the present petitioners for receiving notice. Moreover, it is not known as to what happened to these cases, until and unless there is any conviction in the same, the petitioners cannot be punished for this score.

The present petitioners relate to the Sub-registry office, Bikram and Vaishali and it is also not evident as to whether their names figured in the said First Information Report.

Thus, in the considered opinion of the Court, the authorities have acted in wholly arbitrary and illegal manner occasioning the statutory wrong on the petitioners for which interference under Article 226 of the Constitution of India is wholly warranted.



In the result, the writ applications are allowed.

The impugned orders as contained in each of the writ applications stand quashed and the licences of the respective petitioners are also restored.

(Anjana Mishra, J)

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