

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2957 of 2014

In

Civil Writ Jurisdiction Case No. 4346 of 2014

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1. Santosh Kumar Patel S/o Sri Tej Narayan Singh R/o Village Kadamwa Bhaluhi, P.S. Ghorasahan, District East Champaran.
 2. Soni Kumari D/o Sri Ganesh Paswan R/o Village Sasaula, P.S. Mejarganj, District Sitamarhi.
 3. Sanju Pridarshani D/o Sri Santosh Kapad R/o Village Hanuman Nagar, P.S. Dumra, District Sitamarhi.
 4. Vinita Kumari W/o Sri Kailash Kumar R/o Village Rikhauli, P.S. Dumara, District Sitamarhi.

.... Petitioners

Versus

1. The State of Bihar through the Principle Secretary-cum-Commissioner, HRD Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, HRD Department, Govt. of Bihar, Patna.
3. The District Education Officer, Sitamarhi.
4. The District Programme Officer (Estt.), District Sitamarhi.
5. The Block Development Officer, Block Suppi, District Sitamarhi.
6. The Block Education Officer, Block Suppi, District Sitamarhi.
7. The Mukhiya, Gram Panchayat Raj, Kothiya Rai, Block Suppi, District Sitamarhi.
8. The Panchayat Sachiv, Gram Panchayat Raj, Kothiya Rai, Block Suppi, District Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh
M. Sitaram Prasad
For the Respondent/s : Mr. AC to SC-3
Mr. Mrityunjay Kumar.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

10 06-04-2017 Heard Sri Rajeev Kumar Singh, learned counsel for the petitioners, learned AC to SC-3 as well as Sri Mrityunjay Kumar, learned counsel, who has appeared on behalf of interveners in I.A. No.8553 of 2014.

By filing Intervention petition, the interveners have



prayed for opposing the present modification petition. In paragraph-29 of the Interlocutory Application, a statement has been made that in the main writ petition also, Interveners had filed an Interlocutory Application i.e. I.A. No.5308 of 2014. However, same was not considered due to the reason that the writ petition was being withdrawn. Meaning thereby that interveners were not allowed to be impleaded as party Respondents in the main writ petition. Since the present interveners were not allowed to be impleaded in the main writ petition, there is no point to consider for allowing the interveners to be impleaded in the modification application to oppose it.

Accordingly, I.A.No.8553 of 2014 stands dismissed.

The present petition has been filed with a prayer to recall/modify the order dated 25.07.2014 passed in C.W.J.C.No.4346/2014 by Hon'ble Mr.Justice Jayanandan Singh (as he then was).

Learned counsel for the petitioners submits that the petitioners had filed a writ petition for direction to the Respondents to issue appointment letters on the plea that they were already selected. An interim order was passed by a Bench of this Court on 28.02.2014 in C.W.J.C.No. 4346 of 2014. Thereafter in view of interim order vide Annexure-4 to the present petition,



appointment letters were issued and writ petitioners were appointed. Since during pendency of the writ petition, the relief, which was sought for in the writ petition, was already granted, on 25.07.2014, learned counsel for the petitioners sought permission to withdraw the writ petition on the plea that same had become infructuous. The said permission was granted on 25.07.2014 and the writ petition was dismissed as the same had become infructuous. However, while passing order of dismissal of the writ petition as the same had become infructuous, it was recorded that interim order dated 28.02.2014 shall not be operative.

It has been argued that the reason for withdrawal of the writ petition was that petitioners were already appointed in view of interim order. It has been argued that if the last line of the order is not modified/recalled, there is possibility that Respondents may take steps for recalling the order of appointment, which has been issued by the authority concerned pursuant to interim order. The Court is of the opinion that once the writ petition was dismissed on the submission of learned counsel for the petitioners that writ petition had become infructuous due to the reason that during pendency of the writ petition in view of interim order appointment letters were issued, there is no reason to deny the prayer of the petitioners.



Accordingly, for the just decision in the matter, the last line of the order dated 25.07.2014 in C.W.J.C.No.4346 of 2014, i.e “interim order dated 28.02.2014 shall not be operative” stands deleted. The modification petition is allowed and the order dated 25.07.2014 passed in C.W.J.C.No.4346 of 2014 stands modified to the extent as indicated herein above.

(Rakesh Kumar, J)

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