

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6708 of 2016

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1. Bihar Dastavej Navis Sangh having its office at Registrar Office Campus Gaya through its President namely Uday Kumar Sinha Son of Late Bhawani Sahay Resident of Ramjaypal Nagar, Nasreeganj, District - Danapur, Patna.
 2. Uday Kumar Sinha Son of Late Bhawani Sahay Resident of Ramjaypal Nagar, Nasreeganj, District - Patna.
 3. Santosh Kumar Singh Son of Sri Baldeo Sahay Resident of Madanpur, Brahmsthan, District - Gaya.
 4. Santosh Kumar Srivastava Son of Late Lalan Prasad Resident of Civil Line Pakari Ara, P.S. Nawada Ara, District - Bhojpur (Ara).
 5. Ajay Shankar Datuar Son of Late Dudheshwar Prasad Resident of Shahi Masjid Gali, Nadraganj, P.S. - Bishupad, P.O. - Main Post Office, District - Gaya.
 6. Rajeshwar Prasad Sinha Son of Late Lala Sharda Prasad Resident of New Sipahi Tola, P.S. - Khajanchi Hat, District - Purnia.
 7. Narayan Prasad Sinha Son of Late Yamuna Prasad Resident of Saharsa Ward no. 3, P.S. and District - Saharsa.
 8. Bibhuti Tiwari Son of Late Gobardhan Prasad Tiwari Resident of Red Cross Adampur, Bhagalpur, District - Bhagalpur.
 9. Mahesh Kumar Son of Late Gaya Prasad Sah Resident of Motihari Dhram Samaj Chowk Jamala Road, P.S. - Motihari, District - East Champaran.
 10. Randhir Kumar Son of Late Rajeshwar Prasad Resident of Brahmpur, P.O. - M.I.T., P.S. - Brahampur, District - Bhagalpur.
 11. Shiv Shankar Srivastava Son of Late Bhrigunath Prasad Resident of Sanchi Patti Narayani Nagar Road No. 5 Hajipur, District - 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, Gaya.
6. The District Sub-Registrar, Registry Office, Gaya, District Gaya.
7. The District Magistrate-Cum-District Registrar, Ara.
8. The District Sub-Registrar, Registry Office, Ara, District Ara.
9. The District Magistrate-Cum-District Registrar, Purnia.
10. The District Sub-Registrar, Registry Office, Purnia, District Purnia.
11. The District Magistrate-Cum-District Registrar, Saharsa.
12. The District Sub-Registrar, Registry Office, Saharsa, District Saharsa.
13. The District Magistrate-Cum-District Registrar, Bhagalpur.
14. The District Sub-Registrar, Registry Office, Bhagalpur, District - Bhagalpur.
15. The District Magistrate-Cum-District Registrar, East Champaran.
16. The District Sub-Registrar, Registry Office, East Champaran, District East Champaran.



17. The District Magistrate-Cum-District Registrar, Muzaffarpur.
18. The District Sub-Registrar, Registry Office, Muzaffarpur, District Muzaffarpur.
19. The District Magistrate-Cum-District Registrar, Vaishali.
20. The District Sub-Registrar, Registry Office, Vaishali, District Vaishali.

.... Respondent/s

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Appearance :

For the Petitioners : Mr.
For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 03-10-2017

Heard learned counsel for the petitioners and State.

2. The petitioners have moved the Court for the following reliefs:

“i) For setting aside the order contained in Memo No. 1597 dated 28.03.2016 issued by the Inspector General of Registration, Department of Registration Excise and Prohibition, Government of Bihar, Patna, addressed to all District Magistrate-cum-District Registrar, whereby direction has been issued to cancel the licenses of those deed writers who goes for strike on 30.03.2016, working in registry office throughout Bihar without any delay. The direction is in gross violation and in teeth of provisions of Bihar Deed Writers Licensing Rules, 1996.

ii) For setting aside the letter no. 1699 dated 01.04.2016 issued by the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna,



addressed to all District Magistrates-Cum-District Registrar throughout Bihar, whereby, he has communicated that a decision has been taken to cancel the licenses of all the Deed Writers who went on strike on 30.03.2016 and 31.03.2016 without proper and prior information. Further direction has been given to prepare an alternative so that dependence of deed writers be ended.

iii) For setting aside consequential orders contained in different Memos issued by the District Sub Registrar, of Gaya, Ara, Purnia, Saharsa, Bhagalpur, East Champaran, Muzaffarpur and Vaishali District and other orders issued by the concerned district Sub Registrars whereby an identical communication has been given that a decision has been taken by the District Magistrate-cum-District Registrar of the aforesaid districts, to cancel the license of all the deed writers/trainee deed writers working in registry offices of said districts. They have further ordered that document written by deed writers/trainee deed writers in the said registry offices shall not be accepted for registration in any case.

It is stated that orders issued by all the District sub Registrar cancelling the licenses of deed writers working within their jurisdiction shall be brought on record by filing supplementary affidavits/interlocutory applications challenging those orders. It is stated that all these orders have



been passed in the teeth of Provisions Contained in Bihar Deed Writers Licensing Rules, 1996 made by the Inspector General of Registration in exercise of power contend by clause (bb) of sub-section 69 of the Registration Act, 1908 (Act XVI of 1908, hence are liable to be set-aside by an order of this Hon'ble Court.

iv) For any other relief/reliefs for which petitioner may be deemed entitled too.”

3. In sum and substance, the argument is that the direction to cancel the license of the petitioners, who are deed writers, is not in accordance with the provisions of the Bihar Deed Writers Licensing Rules, 1996 (hereinafter referred to as the 'Rules').

4. Learned counsel for the petitioners submitted that in terms of the provisions of the Rules, especially Rule 13, the cancellation and suspension of license can be only in terms thereof. It was submitted that none of the conditions were satisfied and still a direction to cancel the license having been passed is arbitrary and unsustainable. Learned counsel submitted that the petitioners along with others had informed the authorities in advance with regard to the demands of the petitioners and other similarly situated persons. By way of an example, the attention of the Court was drawn to Annexure-



5 which is a copy of representation dated 17.03.2016 by which notice was given for strike on 30-31.03.2016. Learned counsel for the petitioners submitted that in C.W.J.C. No. 13035 of 2016 in the case of **Upendra Prasad Vs. The State of Bihar and Ors.** and analogous cases, a coordinate Bench by order dated 12.09.2017 has quashed the cancellation of the licenses of the concerned petitioners. He also referred to order dated 14.09.2017 passed in C.W. J.C. No. 12993 of 2016 in the case of **Shovandhari Kumar Vs. The State of Bihar and Ors.** by which another coordinate Bench has taken a similar view.

5. Learned counsel for the State submitted that the basic principles of law have been followed and show cause was issued to all the persons concerned whose licenses have been cancelled. It was further submitted that the order of the authorities also speaks of the fact that no adequate prior notice was given of such strike. Learned counsel submitted that earlier notice to the Principal Secretary/Inspector General would not amount to due notice of the strike for the reason that a list of demands was also incorporated in the same and straightaway it was said that if the demands were not accepted, they would go on strike. Learned counsel submitted that the State of Bihar being in the position today, the extreme adverse effect of two days complete strike where documents were not only not presented by the petitioners, who are the license holders and through



whom the deeds are to be presented, but there was physical prevention of the same, leading to lodging of FIRs at various places. Learned counsel submitted that even otherwise, a statutory forum of appeal is available to the petitioners where they can raise their grievance and coming to the court at the first instance is not justified as there are no mitigating circumstances to justify such bypassing of the statutory forum.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the submissions of learned counsel for the State.

8. The issue cannot be seen in a straight jacket in black and white. As per the provisions of the Rules, especially Rule 9 relating to Conditions of License, Sub Rule (h) of Rule (9)(1) of the Rules reads as under:

“(h) that he shall obey any direction that may from time to time be issued by the Licensing Authority or the Inspector-General of Registration regarding the preparation and the transcription of documents or copies for Registration;”

9. This being one of the essential requirements and conditions of the license, coupled with the fact that there was a specific direction by the Inspector General of Registration, Bihar on



28.03.2016 indicating that the deed writers who go on a two-day strike from 30.03.2016 be identified and their licenses be cancelled would definitely come under the ambit of Rule 9 (1) (h) of the Rules. This was a direction issued by the Inspector General of Registration, as is provided in the Rules and there being a specific direction not to proceed with any strike having been violated, in the considered opinion of the Court, is not only a gross violation of the terms and conditions of grant of license but also a clear cut act of insubordination and misconduct. Further, Rule 13 (1)(a) clearly stipulates that one of the grounds for cancellation and suspension of the license is violation of any of the Rules or the conditions of the license. The fact which remains undisputed is that the petitioners had gone on strike on 30.03.2016 and 31.03.2016, which was prohibited three days prior to such date by a specific direction of Inspector General of Registration in terms of Rule 9 (1)(h). Further, a categorical statement has been made in the counter affidavit filed on behalf of the State (respondents no. 1 to 4) that show cause notice has been issued to all the deed writers of every district and for those who have refused to take notice the same have been pasted at their places of work within their full knowledge. Such categorical stand has neither been replied to nor rebutted despite the fact that copy of the counter affidavit has been served on learned counsel for the



petitioners on 25.04.2016. The Court is also conscious of the fact that Rule 14 of the Rules provides for appeal. Coming to the decisions relied upon by learned counsel for the petitioners in the case of **Upendra Prasad** (supra) and **Shovandhari Kumar** (supra), from a plain reading of the orders, the fact of there being an order of Inspector General of Registration which was in terms of Rule 9(1)(h) of the Rules has not even been referred to in the order, much less considered. This is a vital and relevant consideration, for Rule 9(1)(h) of the Rules specifically gives power to the Licensing Authority or the Inspector General of Registration to issue direction from time to time and once a direction has been issued on 28.03.2016 prohibiting the petitioners from going on strike, the said is a relevant and important aspect which cannot be overlooked and has to be considered in the whole episode. This not having been done, the Court is unable to follow the decision rendered in the said cases. Moreover, the Court would also indicate that governments cannot run on bank guarantees and have to have real cash. The department of Registration raising public money through registration of deeds, especially in a State like Bihar, cannot be lost sight of and it becomes vital for the survival of any Government as well as for the development of the State. Moreover, at the cost of repetition, there is a statutory forum of appeal available and the present is not such a case which shocks the



conscience of the Court or where there is gross violation of any basic or fundamental or statutory right to the extent of being fatal to the end decision. As the specific stand of the State taken in the counter affidavit on oath and not rebutted or replied to, that show cause notices have been given, the Court is of the opinion that straightaway coming to the High Court under its extraordinary, prerogative and discretionary writ jurisdiction under Article 226 of the Constitution of India is not appropriate at the present stage.

10. In view of the discussions made hereinabove, the writ petition stands dismissed. However, the petitioners shall be at liberty to move before the statutory appellate forum, in accordance with law.

(Ahsanuddin Amanullah, J)

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