

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.962 of 2014

IN

Civil Writ Jurisdiction Case No. 9988 of 2008

- =====
1. Kapildeo Raut, Son of Late Bhola Raut, Resident of Village- Bhanachak, P.O. And P.S.- Majhaulia, District- West Champaran. presently posted as Peon in Juthalal Sanskrit Mahavidyalaya, Majhaulia, West Champaran.
 2. Smt. Radhika Devi, Wife of Late Jhulan Raut, Resident of Village- Majhaulia, P.O. And P.S.- Majhaulia, District- West Champaran, presently posted as Safaikaar (Sweeper) in Juthalal Sanskrit Mahavidyalaya, Majhaulia, West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Bihar, Patna namely, Sri Amarjeet Sinha.
2. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, Namely Sri Dr. Deo Narayan Jha.
3. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, Namely Sri Dr. Sudhir Kumar Chaudhary.
4. The Managing Committee, through its Secretary, Juthalal Sanskrit Mahavidyalaya, Majhaulia, West Champaran, Presently no one working as Secretary
5. The Principal (Incharge), Juthalal Sanskrit Mahavidyalaya, Majhaulia, West Champaran, Namely Sri Hazari Singh.

.... Respondent/s-Opposite parties

=====

Appearance :

For the Petitioner/s : Mr. Rana Ishwar Chandra, Advocate
For the State : Mr. Alok Ranjan, AC to GA-6
For the University : Mr. A. P. Sinha, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 10-05-2017

Inter alia contending that an order passed by the Writ Court in CWJC No.9988 of 2008 on 21.07.2011 has not been complied with, this application has been filed by the petitioners for initiating action for contempt.

The writ petition was filed by the petitioners in the year 2008 and in the writ petition, the complaint made was that salary due to the petitioners for the period 08.12.1980 to August, 1987, September,



1987 to October, 1988, November, 1989 to March, 1990 and from April 2000 up to the filing of the writ petition in the year 2008 was not granted. When the matter was taken up, the learned Writ Court found that in spite of the fact that two copies of the writ petition had been served on the respondents on 10.07.2008, no counter affidavit had been filed. In the circumstances, the writ petition was disposed of with the following directions:

“In the circumstances, this writ application is disposed of with a direction to the petitioners to file their separate fresh representations before the Vice-Chancellor of the University within one month from today. If such representations are filed by the petitioners, the Vice-Chancellor shall get their actual period of working verified from the records of the College and ascertained whether they had actually worked during the period and/or are still continuing in the college and to see that their due admissible arrears of salary are paid to them positively within two months from the date of receipt/production of a copy of this order.

The writ application is disposed of with the aforesaid observations and directions.”

When the representations of the petitioners were not decided and when salary was not paid to them, the petitioners filed the present contempt application before this Court on 25th of February, 2014 and in this contempt application also, after repeated orders being passed and after granting time, a show cause has been filed on 07.07.2014 and in the show cause it was only indicated that a Committee has been constituted to look into the grievance of the petitioners and action will be taken. It was indicated in the counter



affidavit that records from the College concerned have to be called for and thereafter a decision taken. However, when nothing was done even thereafter, this Court directed for personal appearance of the Registrar and other officers and finally, an order has been passed vide Annexure-A on 09.12.2014, whereby the claim of the petitioners has been rejected and even their provisional approval for appointment has been withdrawn.

Learned counsel for the petitioners argued that all this has been done with mala fide intention only to deprive the claim of the petitioners after strict orders was passed by this court on 13.11.2014 for complying with the directions and, therefore, he tried to indicate that contempt has been committed.

However, on going through the detailed order, Annexure-A passed by the respondents, we find that in the matter of appointment of the petitioners based on a judgment rendered by the Supreme court on 10.04.2006, in Appeal Civil No.3595- 3692 of 1999, a detailed enquiry was conducted with respect to the institute of the petitioners and the employees working there, it is found that the petitioners' appointment itself was illegal and therefore, salary was never released to them or paid between 2000 to 2008. It is a case where petitioners were not paid salary for a long period of time and continuously, particularly, from the year 2000 till the filing of the writ petition in the year 2008 and the Writ Court only directed for deciding their



representation by the Vice-Chancellor. The Vice-Chancellor has decided the representation vide Annexure-A and now it is not a fit case in the peculiar facts and circumstances where action for contempt could be initiated. If the petitioners were serious enough and had any grievance with regard to non-payment of the salary, it is surprising that from the April, 2000 till the filing of the writ petition in the year 2008, they kept quite and did not raise any grievance except for submitting some representations.

Taking note of the circumstances, it is not proper for initiating action of contempt. In case, the petitioners have any grievance with regard to the manner in which their representation is rejected, they may challenge the same and seek indulgence to an appropriate court. On the ground of mala fide, it is not a fit case where looking into the totality of the circumstances, as are indicated hereinabove, action for contempt can be initiated.

Accordingly, finding no ground, the application is dismissed with liberty to the applicants as detailed hereinabove.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	N. A. F.R.
CAV DATE	N. A.
Uploading Date	15.05.2017
Transmission Date	

