

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Jurisdiction Case No.4645 of 2014**

**IN**

**Civil Writ Jurisdiction Case No. 14676 of 2001**

- =====
1. Smt. Tunki Devi, w/o- Late Jamuna Sharma, Resident of Village- Jamal Bigha, Police Station- Khusrupur, District-Patna
  2. Surma Sinha, S/o- Late Ram Nandan Singh, Resident of Village- Mogalpura, Police Station- Bakhtiarpur, District- Patna

.... .... Petitioner/s

Versus

1. The State of Bihar, through Mr. R.K. Mahajan, the Secretary Department of Education, New Secretariat, Patna.
2. Sridhar C, Director, Primary Education, New Secretariat, Patna,
3. Chandra Shekhar, Regional Joint Director, Primary Education, Patna Division,
4. L N Rajak, District Superintendent, Education, Patna,(Now District Programme, officer(Estb.),Patna.)

.... .... Respondent/s

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**Appearance:**

For the Petitioner/s : Mr. Sajid Salim Khan

For the Respondent/s : Mr. MANOJ KR. AMBASTHA

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA**

**ORAL JUDGMENT**

**Date: 11-05-2017**

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State.

The contempt application has been filed for initiating action against the opposite parties, namely, the Secretary, Department of Education, New Secretariat, Patna, the Director, Primary Education, New Secretariat, Patna, the Regional Joint Director, Primary Education, Patna Division as well as the District Superintendent of Education, Patna.

The petitioners have submitted that the opposite parties



have been willfully and deliberately disobeying the order dated 03.7.2009 passed in CWJC No. 14676 of 2001 in which the petitioners had been directed to file the representation for consideration of their cases in the light of an earlier direction issued by this Court in the case of similarly situated persons was the principal case and which finds place in the order under contempt.

Counsel for the petitioners submits that the representation was filed along with copies of the order passed in the earlier case on 25.7.2009. Representations were filed before the appropriate authority thereafter on several dates being 17.8.2009, 08.11.2011, 16.10.2012 and 16.4.2012, several representations were filed. However, in utter disregard of the order passed by this Court, the opposite parties did not pass any order which necessitated the petitioners to approach the Lokayukta, Patna. It is submitted that the petitioners being sick persons were harassed and they went to the office of opposite party no. 5 and opposite party no. 2 but they were not found present in the office. As such till date there is no compliance of the order passed on 03.7.2009. The husband of petitioner no. 1 expired on 01.2.2014 and thereafter she has been pursuing her husband's case. It is thus submitted that the order under contempt was required to be complied with within two months of the date of filing of the representation. It is only after the death of



husband of petitioner no. 1, that the present petitioner no. 1, wife of late Jamuna Sharma has filed the present contempt application.

Learned counsel for the petitioners submits that after filing of the present contempt application certain orders have been passed on 29.1.2015 and 18.1.2016 which have been brought on record by opposite party no. 2 as Annexure-A to the show cause and Annexure-B of the supplementary show cause filed by the opposite parties. By the said orders the authority have passed the speaking order in which the case of the petitioners have been negated. Thus counsel for the petitioners submits that the delay which was occasioned, led to the sad demise of the husband of the petitioner no. 1 and, therefore, he ought to be suitably compensated and the authorities who had caused the delay, be punished for gross disobedience of the order passed by this Court.

Counsel appearing on behalf of the State while pointing out to the submissions of the opposite parties and also the apology rendered by them, submits that now the petitioners have fresh cause of action and such cause of action being available to them, the contempt case need not proceed further. He further submits that the petitioners have filed present contempt application after a delay of five years from the date of order under contempt and for the said reason the proceedings may not continue. He also submits that speaking order



passed vide Annexure-A and Annexure-B are indicative that directions passed by the Writ Court have been addressed and the matter has been disposed of in accordance with law.

Having considered the submissions of the parties, it is made clear that the present case is not an adversarial litigation. It is a matter which is supposed to be brought to the notice of the Court for ascertaining as to whether there has been any willful disobedience of the direction issued by the Court. However, be that as it may, and whatever may be the reason for the petitioners for not coming this Court on an earlier point of time, the authorities have been sitting over the matter and it is only after filing of the contempt application that they have proceeded to pass orders with regard to the present case. Such act on behalf of the opposite parties is fit to be deprecated.

Nevertheless, in view of the fact that the petitioners now have fresh cause of action, the contempt application is disposed of with warning that orders of this Court need compliance and any willful non-compliance of such orders would call for strict action against the opposite parties.

**(Anjana Mishra, J)**

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