

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17749 of 2016

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1. The Union Of India through the General Manager, East Central Railway, Hajipur.
 2. The General Manager, East Central Railway, Hajipur.
 3. The Divisional Railway Manager, East Central Railway, Hajipur.
 4. The Senior Divisional Personnel Officer, East Central Railway, Danapur.

.... Petitioner/s

Versus

1. Mohan Prasad Son of Late Sita Ram, Jeep Driver under Dy. Chief Engineer [Con]/1, Railway, Rajgir, District- Nalanda (Bihar).
2. Sri Madhuresh Kumar, The then General Manager, East Central Railway, Hajipur.
3. Sri L.M. Jha, the then Divisional Railway Manager, East Central Railway, Hajipur.
4. Sri Manish Chandra, the then Senior Divisional Personnel Officer, East Central Railway, Danapur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shekhar Singh Advocate
For the Respondent/s	:	Mr. M. P. Dixit Advocate Mr. S. K. Dixit Advocate Mr. Sanjay Kumar Chaubey Advocate Mr. Shailendra Kumar Advocate Mr. Sunil Kumar Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 11-07-2017

Heard learned counsels for the parties.

A very pointed submission is made on behalf of the
petitioner, representing the Union of India, Ministry of Railways that



the direction, dated 22.09.2016, issued in C.P. No. 98 of 2013, arising out of O.A. No. 26 of 2010, is in teeth of the decision rendered by the Hon'ble Supreme Court in the case of ***J. S. Parihar Vs. Ganpat Duggar & ors., reported in AIR 1992 SC 113.***

An objection is taken by Mr. M. P. Dixit, placing reliance on the other hand on the decision of the Hon'ble Supreme Court in the case of ***T. Sudhakar Prasad Vs. Govt. of A. P. and ors., reported in (2001)1SCC516,*** that against the order of CAT in a contempt jurisdiction no writ application will lie.

The primary objection on behalf of respondent, represented by Mr. M. P. Dixit, does not seem to be applicable to the facts of this case. No doubt, the order impugned, dated 22.09.2016 has been passed under the powers being exercised under contempt but a reading of the same, the order would show that it is more like an adjudication in the OA, if not an appendix to the earlier order passed in the OA.

If the Tribunal was not satisfied with the speaking orders, which had been passed by the petitioners or the authority, the private-respondent had remedy under law to assail such an order. The contempt jurisdiction cannot be used by the Tribunal to continue adjudication as well as issuance of directives to take a decision within a straight jacket.

This is the effort, which has been made by the Tribunal in its impugned order, dated 22.09.2016.



In view of the above, the Court is satisfied that the directive and order, dated 22.09.2016, is not in conformity with the power conferred within the framework of the contempt jurisdiction, therefore, the impugned order, dated 22.09.2016 passed in C.P. No. 98 of 2013 by the Central Administrative Tribunal, Patna Bench, Patna, is quashed.

Writ application is allowed.

However, dismissal of the writ application will not come in the way of the private-respondent seeking remedy under law.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	13.07.2017
Transmission Date	

