

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1263 of 2015

IN

Civil Writ Jurisdiction Case No. 20755 of 2013

=====

Raj Kishore Prasad Sinha, son of Late Raghunath Prasad Singh, Finance Officer,
B.N. Mandal University, Madhepura, resident of Anandpuri, Bibiganj, North of
RLY Pani Tanki (Near S.K. Tent House), P.S- Muzaffarpur Sadar, Distt-
Muzaffarpur- 842001

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, R.K. Mahajan, Higher Education Department, Patna
2. Sri Binod Kumar, the Vice Chancellor, B.N. Mandal University, At Madhepura, P.O- Madhepura, Distt- Madhepura.
3. Mr. Kumaresh Prasad Singh, the Registrar, B.N. Mandal University, Madhepura, P.O and Distt- Madhepura.
4. Sri C.R. Deegwal, Financial advisor, B.N. Mandal University, Madhepura, P.O. and Distt.- Madhepura.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Nand Kishore Singh

For the Respondent/s : Mr. Amar Nath Deo

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 31-01-2018

Inter alia, contending that an order passed in CWJC NO.
20755 of 2013 on 1003.2014 with regard to payment of arrears of
salary has not been complied with, this application has been filed for
initiating action for contempt.

The relevant part of the order with regard to payment of
arrears of salary reads as under:-

*“As with regard to the claim of
payment of salary, this Court would direct the
Registrar of the University to ensure that all*



the arrears of salary of Sri Raj Kishore Prasad Sinha, the petitioner from 26.10.2013 till date must be paid to him within a period of one week from today. The payment of salary however will be made in the same pay scale which he was drawing earlier which none the less would remain subject to the final order passed by the learned Chancellor.”

It is the case of the petitioner that arrears of pay in the revised pay scale has not been paid and once there is specific direction to pay the aforesaid amount, non-compliance and willful disobedience of the orders of this Court amounts to contempt and in support of his case attention of this Court is invited to a judgment of the Supreme Court in the case of **Anil Ratan Sarkar & Ors.vs. Hirak Ghosh & Ors. [(2002) 4 SCC 21]**.

The respondents have filed a show cause and point out that the petitioner had already taken advance against salary of more than Rs. Seven lacs vide cheque no. 693098 dated 24.08.2014 and with regard to benefit granted to the petitioner as per the revised pay scale it is pointed by filing various documents and materials that the petitioner himself in his capacity as Finance Officer of the University illegally fixed his pay in a higher pay scale contrary to the statutory provision and, therefore, action has undertaken and a sum of



Rs.27,74,000/- is recoverable from the petitioner. Emphasis in the show cause has been laid to say that the petitioner having fixed his salary in an illegal manner cannot claim the same with consequential benefits.

Learned counsel for the petitioner vehemently argues and submits that a false affidavit has been filed and, therefore, contempt action be taken.

Having considered the rival contentions I find that the order passed does not specifically say as to in which grade or in which revised scale of pay arrears has to be paid. The order is innocuous and it only speaks about payment of arrears of salary to the petitioner from 26.10.2013 till date.

There is now dispute with regard to whether the said amount has been paid to the petitioner. According to the respondents, Rs.7,00,000/- has already been paid to the petitioner and now claims the differential amount of pay by virtue of his own misdoings inasmuch as he has fixed his own revised scale in an illegal manner as Financial Officer and, therefore, the amount is not payable to him. On the contrary, certain amount is now recoverable from the petitioner.

Keeping in view the controversy now involved in the matter and considering the fact that there is no specific direction for



payment of any amount in a particular pay scale, I am not inclined to initiate contempt. In case the petitioner is aggrieved as to the quantification of the arrears liberty shall be available to the petitioner to claim it afresh I accordance with law but in the facts and circumstances of the case it is not appropriate to initiate action for contempt against the respondents.

Accordingly, finding no case for initiating action for contempt this application stands disposed of.

(Rajendra Menon, CJ)

mrl/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.02.2018
Transmission Date	

