

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3743 of 2017

IN

Civil Writ Jurisdiction Case No. 9665 of 2016

- =====
1. Vishwanath Singh, S/o Late Haridwar Singh, R/o village- Dullahpur, P.S.- Simri, District - Buxar at present working as a Pharmacist posted at Additional Public Health Centre, Sherpur, Patna.
 2. Brij Kumar Sahu, S/o Kamnath Sahu, R/o Village- Bathua Bazar, P.S.- Phulwaria, Dist- Rohtas. Presently residing at Makhanpur Gulzarbagh, P.S.- Alamganj, District Patna and posted as Pharmacist P.M.C.H., Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. Mr. Anjani Kumar Singh, the Chief Secretary, Government of Bihar, Patna.
3. Mr. R.K. Mahajan, the Principal Secretary, Health Department, Government of Bihar, Patna.
4. Sri Dr. Chandra Mohan Jha, the Director-in-Chief, Health Services, Government of Bihar, Patna.
5. The Joint Secretary, Health Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Adv.

For the Respondent/s : Mr. Upendra Kumar Singh, AC to GA-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 11-07-2018

Heard Mr. Surendra Kumar Singh, learned counsel appearing for the petitioner and Mr. Upendra Kumar Singh, learned Assisting Counsel to Government Advocate No.8.

The grievance raised by the petitioner in the writ petition was that the promotional rule for pharmacists notified on 24.9.2014, has not been implemented. During the course of deliberation, an affidavit was filed on behalf of the Chief Secretary assuring that the process would be completed without any delay. It is taking note of the undertaking of the Chief Secretary that the writ petition was disposed



of and since according to the petitioners, the order has not been complied that the contempt application has been filed.

Initially a show cause was filed praying for time which is followed by a show cause of the Chief Secretary in which it is stated that the promotional ladder has been clarified vide notification No.1313 dated 03.11.2017 at Annexure 'A' to the show cause and which provides two promotional posts. This does not satisfy the petitioner whose submission is that the 2014 Rules has not been given effect to rather has been modified with sole intention to prejudice the claim of the petitioners.

Be it noted that while disposing of the writ petition this Court never opined on the inter-party rights rather it is taking note of the grievance of the petitioners that the Promotional Rule, 2014 was not given effect to, that the writ petition was disposed of on the assurance given by the Chief Secretary as well as the stand taken by the State Government in the supplementary counter affidavit that the Rules would be implemented.

In my opinion, there was no adjudication on the claim for promotion put forth by the petitioners, rather it is taking note of the complaint made against non-implementation of the promotional rules that the writ petition was disposed of with a reminder to the Chief Secretary to abide by his undertaking to implement the rules.



In such situation any grievance raised by the petitioners on the consequences of implementation of the rules, cannot be a subject matter of a contempt jurisdiction rather if in case, in the process of implementation the promotional rules, any right vested in the petitioners under the 2014 Rules, has been taken away, the same has to be raised through a duly constituted proceedings before the appropriate forum for its consideration on merits, but in the circumstances noted no case for contempt is made out. The contempt petition is accordingly disposed of with the liberty aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18-07-2018
Transmission Date	NA

