

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2377 of 2016

In

Civil Writ Jurisdiction Case No. 14245 of 2016

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Surendra Prasad Dubey, aged about 66 years son of barameshwar Dubey,
resident of village – Devkuli, P.O. – Devkuli, District – Buxar.

.... Petitioner

Versus

1. The State of Bihar
2. Dr. Azad Hind Prasad, Director-in-Chief, health Service, New Secretariat, Patna.
3. Dr. Madheshwar Prasad Singh, Civil Surgeon-cum-Chief Medical Officer, Gopalganj, Pin-841428

.... Respondents/opposite parties

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Appearance :

For the Petitioner/s : Mr. Nirmal Kumar Tripathi

For the Respondent/s : Mr. A.C. to G.P.6

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3. 21-08-2018 Heard learned counsel for the petitioner and learned
counsel representing the opposite parties.

While dismissing the writ application of the petitioner
in the concluding paragraph the learned writ court made the
following observations:

*“Before parting with this Court, however, would make
it clear that it will be open for the petitioner to
approach the Director-in-chief once again so far it
relates to payment of salary for the period of
suspension, inasmuch as if the order of suspension had
been passed on the ground of his being made accused
in a criminal case (not in contemplation or due to
pendency of the departmental proceeding), he may
become entitled for payment of salary for the period of
suspension on account of acquittal earned by him, but if
the order of suspension was passed on account of the*



petitioner being subjected to departmental proceeding, the petitioner may not be become entitled for payment of such amount of subsistence allowance.”

Now, learned counsel for the petitioner submits that a proceeding for contempt be initiated for willful disobedience and violation of the orders passed by this Court.

This court is of the opinion that so far as the writ application of the petitioner was concerned it was dismissed, but in the concluding paragraph only an observation was made leaving it opened for the petitioner to approach the Director-in-chief, but the learned writ court has not issued any mandamus to the Director-in-chief. If the Director-in-chief is not acting and is not considering the representation of the petitioner, in absence of a prerogative writ issued to him directing to do something or not to do something, this contempt application cannot proceed.

Learned counsel for the State is present. This application is disposed of in terms stated hereinabove giving liberty to the petitioner to seek his remedy in appropriate jurisdiction in accordance with law.

(Rajeev Ranjan Prasad, J)

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