

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.448 of 2016
IN
Civil Writ Jurisdiction Case No. 10539 of 2009

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Lalan Prasad, S/o Shri Late Bahadur Prasad R/o Village+P.O.-
Bahrauli, Kunwar Tola, P.S. Masherak District- Saran.

.... Petitioner

Versus

1. The State of Bihar
2. The R.K. Mahajan, The Principal Secretary, H.R.D. Department,
Government of Bihar, Patna.
3. Mr. S.K. Chaudhary, The Director, Primary Education,
Government of Bihar, Patna.
4. Mr. Deepak Anand, The District Magistrate, Saran, Chapra.
5. Mr. Awadhesh Bihari, The District Education Officer, Saran,
Chapra.
6. Mr. Ajit Kumar, The District Programme Officer, (Establishment),
Saran, Chapra.
7. Mr. Hari Mohan Kumar, The B.D.O. Mashrakh, Saran.
8. Mr. Magister Singh, The Block Education Extension Officer,
Mashrakh, Saran.
9. Mrs. Rita Devi, The Mukhiya, Gram Panchayat Raj, Bahrauli,
Block Mashrakh, District- Saran.
10. Mr. Manager Prasad Singh, The Panchayat Secretary Gram
Panchayat Raj, Bahrauli, Block- Mashrakh, District- Saran.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Tiwary

For the Respondents : Mr. Upendra Pratap Singh, A.C. to S.C.4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 24-08-2018

Heard learned counsel for the petitioner and
learned counsel representing the State.

2. Petitioner is seeking initiation of a
proceeding for contempt against the opposite parties for
their willful disobedience and disregard shown to the order
dated 03.11.2009 passed in CWJC No. 10539/2009. The
operative part of the order reads as under:



“Considering the fact that the respondents are keeping mum and not filing any reply showing reason for payment of salary, this application is being disposed of directing the concerned Panchayat Secretary and Mukhiya of the concerned Gram Panchayat to look into the matter and payment of salary which has been stopped should start at once specifically within a period of two weeks from the date of receipt/production of a copy of this order. All entire arrears of salary should be paid and the payment of current salary should start which shall continue on month to month basis.”

3. It is the contention of learned counsel representing the petitioner that the petitioner was duly appointed in accordance with the rules governing the appointment of the Shiksha Mitra as Panchayat Teachers and after his appointment he was paid his salary also but when it was stopped, he moved this court in the writ application in which the aforementioned order was passed.



4. The subsequent development which is taken place after passing of the order aforesaid have been brought on record on behalf of the opposite parties by filing a show cause. The opposite parties have placed on record the order dated 12.08.2010 passed in CWJC No. 15909/2009 which was brought by one Brenjit Kumar Prasad making this petitioner respondent no. 10 in the writ application. Brenjit Kumar Prasad moved this court when on a complain made by this petitioner against his selection the District Superintendent of Education got an enquiry done in the matter and based on that enquiry directed termination of his appointment and further directed the complainant (this petitioner) to be appointed instead. After hearing the writ application the learned coordinate Bench of this court in the writ jurisdiction set aside the order of termination of Brenjit Kumar Prasad and directed for his appointment and payment of consequential benefits. This petitioner thereafter preferred LPA No. 1621/2010 in which Brenjit Kumar Prasad was made party respondent no. 10. The Hon'ble Division Bench of this court after hearing this petitioner in the L.P.A. did not interfere with the judgment of the learned writ court and rather affirmed the same. This petitioner still filed a civil



review bearing No. 51/2011 which was again considered by Hon'ble Division Bench and the same was dismissed vide order dated 18.03.2015. There is yet another order passed on 14.12.2012 by the learned writ court in CWJC No. 21380/2012 in which Brenjit Kumar Prasad had prayed for payment of his salary. The learned writ court once again directed the Panchayat Sachiv of the Gram Panchayat to pay the arrears of salary for the period to the petitioner Brenjit Kumar Prasad for the period he was kept out of service. The claim of salary after reinstatement was to abide by the report of the District Programme Officer with the respective obligations of the State Government and the Panchayat Sachiv/Gram Panchayat.

5. It further appears that this petitioner filed a review application once again giving rise to Civil Review No. 441/2016 complaining that in the writ petition he was not noticed. The learned Single Judge on hearing the Review Application took note of the submission of this petitioner and held that *prima-facie* the stand of this petitioner was correct and directed maintenance of status quo order till service of notice, however later on the said Review Application was dismissed.

6. In the show cause, the District Education



Officer, Saran has enclosed Annexure-G, which is a letter bearing No. 55 dated 09.01.2018, reading of which would make it clear that there were six vacancies in the women category, five vacancies were there in the male category and as per roster out of five vacancies in the male category, three were unreserved vacancies and one was made for the backward class category and one for SC/ST. The letter also reveals that there was only one post against which two appointments could not have been made.

7. To this court, it appears from a reading of the entire orders, which have been referred hereinabove, that admittedly Brenjit Kumar Prasad was removed on the complaint of this petitioner and this petitioner was appointed in his place, this fact is mentioned in the order dated 12.08.2010 passed in CWJC No. 15909/2009 and there is no pleading on the record that it is an error of record.

8. The facts which crystallized from the records are not in dispute. Once the appointment of Brenjit Kumar Prasad has been reiterated by this court and he has been directed to be reinstated with all consequential benefits, the stand taken in the show cause is that there is only one post against which there cannot



be two appointments and payment cannot be made to two persons. The said Brenjit Kumar Prasad has to get the consequential benefits and payment of salary as per orders referred above. If this is the position emerging out of the records, this court does not find any reason to accept the contention of learned counsel for the petitioner that the opposite parties are guilty of willfully violating the order dated 03.11.2009 passed in CWJC No. 10539/2009.

9. In the opinion of this court, there is no willful disobedience or disregard to the order of this court and hence no proceeding for contempt need be initiated.

10. This contempt application is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2018
Transmission Date	NA

