

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3507 of 2015

In
Civil Writ Jurisdiction Case No.10160 of 2011

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1. Basant Ram Son of Sajjan Ram Resident of Village - Mainrahi Dhurgaon, P.S. - Madhepura (Bharahi), District - Madhepura.
 2. Ramanand Paswan Son of Sitaram Paswan Resident of Village - Tarauni, P.S. - Bihariganj, District - Madhepura.
 3. Shiv Kumar Paswan Son of Lakshmi Paswan Resident of Village - Dudhela, P.S. - Madhepura, District - Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sri Amir Sohani, Principal Secretary, Home (Police) Department, Government of Bihar, Patna.
3. Sri T.N. Bindeshwari, Commissioner, Koshi Division, Saharsa.
4. Sri Md. Sohail, The District Magistrate, Madhepura.
5. Sri Kumar Ashish, the Superintendent of Police, Madhepura.
6. Sri Binay Kumar Sinha, Additional Collector, District - Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Satish Chandra Jha-3
For the Respondent/s	:	Mr. Ashok Kumar Keshri

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 06-08-2018

The present contempt petition has been filed complaining disobedience of the order dated 11.02.2014 passed by this Court in C.W.J.C. No. 10160 of 2011 whereby and whereunder the writ petition was dismissed and the Respondents were directed to proceed with the selection process initiated through the said advertisement and complete the same as expeditiously as



possible.

2. I have heard the learned counsel for the parties and gone through the records and I find that the petitioners herein were not parties to the aforesaid writ petition bearing C.W.J.C. No. 10160 of 2011, hence, the present contempt petition is not maintainable at the instance of the petitioners herein, who are admittedly third parties. Reference, in this connection, be had to a judgment of the *learned Division Bench of the Hon'ble Karnataka High Court, reported in 2016 SCC Online Kar 6468*, paragraph Nos. 5 and 6 are reproduced hereinbelow:-

“5. It is a settled position in law that the power conferred on a High Court under Article 215 of the Constitution of India to punish for Contempt of Court must be exercised in accordance with the provisions of the Contempt of Courts Act, 1971. Therefore, having regard to the provisions of the Act, petition to initiate action for civil contempt as defined under Section 2(b) of the Act can be presented only by a party aggrieved, except where the Court which passed the order has given liberty to third parties, who are not parties to the order, to initiate action for Contempt of Court. We may state that Section 14 of the Act relates to procedure where contempt is in the face of the Supreme Court or a High Court and Section 15 of the Act relates to procedure in the case of a criminal contempt; they are exceptions to the rule of *locus standi* relating to civil contempt stated above.

6. The complainant is not a party to the order in his personal capacity. As the complainant has presented this petition in his personal capacity and in his personal name and not as administrator of the Masjid, he cannot be said to



be a 'party aggrieved. It is relevant to state that, in the order, no liberty is given to any third party to initiate action for Contempt of Court. Hence, the petition as brought is not maintainable and is accordingly dismissed."

3. Though the present contempt petition is not maintainable at the instance of the petitioners herein, however, the order dated 11.02.2014 passed in C.W.J.C. No. 10160 of 2011 would bear it out that this Court had dismissed the writ petition and no positive mandamus was issued to the authorities except that they were directed to proceed with the selection process and complete the same as expeditiously as possible. The operative portion of the aforesaid judgment dated 11.02.2014 is quoted hereinbelow:-

"In the circumstances, this Court does not find any error in the advertisement issued by the respondents, as contained in Annexure-17, and, therefore, does not find any merit in the writ application and the same is dismissed. The Respondents are directed to proceed with the selection process initiated through the said advertisement and complete the same as expeditiously as possible."

4. Nonetheless, the Respondents have submitted that even the L.P.A. filed by the petitioners of C.W.J.C. No. 10160 of 2011 against the order dated 11.02.2014 has been dismissed by the learned Division Bench by a judgment dated 20.04.2017. It may be relevant to mention here that the petitioners herein had



filed another writ petition bearing C.W.J.C. No. 14241 of 2007 for quashing of the order of the Collector, Madhepura dated 04.09.2007 whereby and whereunder their appointments on the post of village Choukidar had been cancelled, however, this Court by a judgment dated 22.11.2012 held that the cancellation of the appointment of the petitioners herein and others cannot be faulted with and the order of cancellation of such appointments was just and legal in the eyes of law, however, it was directed that the petitioners would be at liberty to apply within a period of one month from the date of the said judgment dated 22.11.2012, pursuant to the advertisement dated 11.06.2011, provided the selection process has not been completed. One peculiar fact which emerges from the said judgment dated 22.11.2012, passed in the case of the writ petitioners and others is that the said writ application had been confined only to the petitioner No. 1 i.e. one Pawan Paswan.

5. From the aforesaid facts and circumstances of the present case, it appears that the petitioners herein are seeking to achieve, by way of the present contempt petition, what they could not achieve in the aforesaid writ petition bearing C.W.J.C. No. 14241 of 2007, which cannot be permitted.

6. Having regard to the facts and circumstances stated



hereinabove as also for the reasons stated in the preceding paragraphs, the present contempt petition has no merit and is accordingly dismissed.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.10.2018
Transmission Date	NA

