

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1005 of 2017

IN

C. REV. 52 of 2012

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Ashok Kumar Arvind, son of Late Ram Charan Poddar, Resident of Village-Baluachak, PS - Jagdishpur, District - Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through Sri R. K. Mahajan, son of not known to the petitioner, its Secretary, Education Department, Main Secretariat Building, Bihar, Patna.
2. Sri R.K. Mahajan, son of not known to the petitioner, the Secretary-cum-Commissioner, Department of Primary & Adult Education, Government of Bihar, Patna in the State of Bihar, Patna.
3. Sri Binodanand Jha, son of not known to the petitioner, Director, Mass Education, Government of Bihar, Patna in the State of Bihar, Patna.
4. Sri Phul Babu Chaudhary, son of not known to the petitioner, the District Mass Education Office, Bhagalpur in the State of Bihar.
5. Sri Adarsh Titarmare, son of not known to the petitioner, District Magistrate, Bhagalpur in the State of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Adv.

For the Respondent/s : Mr. Shashi Shekhar Tiwary, AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 29-10-2018

This contempt application arises out of the order passed by this Court in Civil Review No.52 of 2015 which was heard analogous with LPA No.1489 of 2011 and other applications, whereby a direction was issued to the State for reengagement of the Instructors who had been appointed under the scheme. It is on attaining finality before the Supreme Court that the process had been started and since remained incomplete that this contempt application was filed.



A supplementary show cause has been filed on behalf of the respondent-opposite parties and which explains the reasons for non-appointment of the petitioner. Mr. Shashi Shekhar Tiwary, learned Assisting Counsel to Additional Advocate General No.15 has referred to paragraphs 6 to 8 of the supplementary show cause and which we are persuaded to reproduce hereinafter for purging the opposite parties of contempt because even after the reconsideration of the claim, the department has not found the petitioner entitled for appointment. Paragraphs 6 to 8 of the supplementary show cause filed on 11.10.2018 runs as under:

“6. That in order to recognize the actual instructors who fulfill the requisite criteria laid down in the directions of the Hon’ble Court as well as by the Hon’ble Apex Court. A District Level Committee was formed by the memo no.2121 dated 28.9.2016. The recommendation of District Level Committee of Bhagalpur has been made available to the department vide letter no.63 dated 3.3.2017 and the Committee recommended altogether names of 278 persons among which name of the present case petitioner did not find place. In other words the District Level Committee did not find the petitioner fit for adjustment.

7. That in the light of directions passed by this Hon’ble Court the Department decided to re-look all the matters who were rejected or not find fit by constituted the Second District Level Committee vide memo no.2530 dated 4.10.2017 and the said District Level Committee has submitted its recommendation vide letter no.509 dated 28.2.2018, recommending the names of altogether 331 Instructors among which name of the present case petitioner again did not find place. In other words the Second District Level Committee also did not find the petitioner fit for adjustment.

8. That in the both of the list of said recommendations names of $278+331=609$ Instructors are included but the name of the petitioner is not mentioned



i.e. his name has not been recommended by the either of the District Level Committee for absorption/appointment, meaning thereby he is not found eligible for absorption/appointment.”

In view of the stand so taken in the supplementary show cause we dispose of this contempt application with liberty to the petitioner, if so advised, to move before the appropriate forum by filing an appropriate application in case he is aggrieved by the act of the opposite parties in not finding him eligible for appointment. However, in the nature of explanation made, no case for contempt is made out. The contempt application is disposed of accordingly.

(Jyoti Saran, J)

(Nilu Agrawal, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20-11-2018
Transmission Date	NA

