

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1903 of 2017

IN

LPA 1021 of 2016

=====

1. Anurag S/o Sri Pramod Kumar Verma R/o Mohalla - Takkichak, Colony
Salehpur Road, P.S. - Habibpur, District - Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through Anjani Kumar Singh s/o not known to the petitioner. Chief Secretary, Government of Bihar, Patna.
2. Mr. Anjani Kumar Singh s/o not known to the petitioner. Chief Secretary, Government of Bihar, Patna.
3. Amir Subhani s/o not known to the petitioner. Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. Atul Prasad s/o not known to the petitioner. Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
5. Rama Shankar Daftaur s/o not known to the petitioner Director, Social Welfare Directorate, Old Secretariat, Bihar, Patna.
6. Jogendra Ram s/o not known to the petitioner Secretary, Veterinary College, Patna - 800014.
7. Sanjiv Kumar Sinha s/o not known to the petitioner Chairman, Bihar Staff Selection Commission, Veterinary College, Patna - 800014.
8. Jogendra Ram s/o not known to the petitioner Secretary, Bihar Staff Selection Commission, Veterinary College, Patna - 800014.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sharma

For the Respondent/s : Mr. PRABHAT KUMAR VERMA - AAG 3

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 25-06-2018

The present application has been preferred for initiating a proceeding against the Opposite Parties Nos.1 to 8 for their alleged disobedience and willful violation of the order dated 04.10.2016 passed by this Court in LPA No.1021 of 2016.



2) The operative part of the order dated 04.10.2016 in LPA No. 1021 of 2016 (Annexure-1) read as under :-

27. In the facts and circumstances of the present case, we are of the considered view that these appellants deserve to be appointed against available vacancies

28. We, accordingly, direct the Principal Secretary, General Administration Department, Government of Bihar, to send vacancy position of various posts, so advertised, to the Commission, which have remained unfilled, because of non-joining of the candidates within a period of 15 days from the date of the present judgment and order.

29. The Secretary of the Commission is, in turn, directed to recommend the names of these appellants for their appointment against available vacancies on the basis of their merit position within a period of one week thereafter.

30. Once the recommendations are made, the concerned Department(s) shall be required to proceed accordingly and issue appointment letters in favour of the appellants in accordance with law.

31. We further direct that the respondents shall not compel the appellants to join the posts of Accountant –cum- Store



Keeper/Cashier, as the case may be, and their candidature shall not be cancelled by the respondents on the basis of their non-joining on the said posts.

3) Mr. Dinu Kumar, learned counsel representing the petitioner, submits that despite there being a categorical direction issued by this Court and even of the dismissal of special leave petition by the Hon'ble Supreme Court, the Opposite Parties have failed to comply with the order and directions, they have no respect for the order of this court as the Opposite Parties have failed to post the petitioner in accordance with the given preference.

4) On the other hand by filing a show cause, the opposite party nos.4 and 5 who are the Principle Secretary, Social Welfare Department, Government of Bihar and the Director, Social welfare Department, Social Welfare Directorate have informed this Court that the name of the petitioner has been recommended for appointment to the post of Junior Statistical Assistant under Labour Resources Department, Government of Bihar. Opposite Party Nos. 7 and 8 who are the Chairman, Bihar Staff Selection Commission and the Secretary, Bihar Staff Selection Commission respectively have also filed show cause and have placed on record Annexure- A and B. The letter and resolution of the Government by which attempts have been



made to demonstrate that the candidates up to merit position 560 have only been recommended to the post of Secretariat Assistant. So far as the present petitioner is concerned even though the petitioner had secured 432 marks but facts remains that he was placed at Sl. No. 567 in the merit position and, therefore, it is the case of the Opposite Party Nos. 7 and 8 that no person below the petitioner in the merit list has been recommended for the post of Secretariat Assistant. It is further stated that the petitioner had given a second option to the post of Accountant-cum-Cashier but the said post is not available in the concerned department and, therefore, the petitioner has been recommended to the post of Junior Statistical Assistant Vide Annexure A to the show cause.

5) Having heard learned counsel for the petitioner and learned counsel representing the Opposite Parties as also on perusal of the records we find that the stand taken by the Opposite parties saying that in the general category, the last person with 432 marks has been recommended up to 560 rank only and no person below the ranks secured by this petitioner has been recommended for the post of Secretariat Assistant has not been disputed by learned counsel representing the petitioner. If the stand taken by the Opposite parties, as stated above remains undisputed the petitioner would not be able to make out a case for initiation of a contempt proceeding against the



opposite parties.

6) We have noticed that the name of the petitioner has already been recommended for appointment on the post of Junior Statistical Assistant and in the given circumstances, we are willing to accept the show cause on behalf of the opposite parties. No case for initiation of contempt is made out.

7) The application stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	--
Uploading Date	29.06.2018
Transmission Date	--

