

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2226 of 2014

In
Civil Writ Jurisdiction Case No.9260 of 2011

1. (a) Sanjay Kumar Son of late Kameshwar Prasad Singh R/o Village- Sekhauna, P.S. - Bairstania, Distt- Sitamarhi.
1. (b) Sunita Devi D/o late Kameshwar Prasad Singh, Wife of Sri Uday Prakash R/o Village- Amarchhatauni, P.O. Rupadi, P.S. Mufassil, District- Motihari.

... .. Petitioners

Versus

1. The State of Bihar
2. Dr. Pratima S. Verma the Collector, Sitamarhi.
3. Sri Sunil Kumar Tiwary, the Senior Deputy Collector District General Section, Sitamarhi.
4. Sri Hemant Kumar, the Block Development Officer-cum-Executive Officer of Nagar Panchayat Bairstania, District-Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar
For the Respondent/s	:	Mr. Ashok Kumar Keshri

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

15 19-11-2018 Heard learned counsel for the petitioner, learned counsel representing the State and learned counsel representing Nagar Panchayat.

Learned counsel for the petitioner has in order to demonstrate before this Court that the Nagar Panchayat, Bairstania is willfully disobeying the order of the learned Writ Court, relied upon Annexure-11 to the supplementary affidavit filed on behalf of the petitioner. Attention of this Court has been drawn towards the resolution dated 17.02.2006 said to have been passed by the Nagar Panchayat, Bairstania in which a decision was taken that the retirement age of the employees of



the Nagar Panchayat be increased from 58 years to 60 years after seeking approval of the Urban Development Department, Govt. of Bihar. The resolution also says that the resolution shall be effective from the date of approval by the Department. Learned counsel then contends that in fact a letter no. 347 dated 11.02.2006 of the Urban Development Department itself shows the policy decision of the Government in regard to the enhancement of age and therefore, the circumstances stated by the learned Writ Court in its order particularly in paragraph 12 are very much present.

Contesting the submissions of learned counsel for the petitioner, learned counsel representing Nagar Panchayat submits that at first place the resolution dated 17.02.2006 was subject to approval by the Urban Development Department and it was to take effect from the date of such approval. It is stated that the Urban Development Department never gave its approval to the resolution dated 17.02.2006. In the show cause filed on behalf of the opposite party no. 4 it has been also stated that the Nagar Panchayat, Bairginia did not increase the date of retirement of its employee from 58 years to 60 years and even in course of argument learned counsel representing the Nagar Panchayat has contended that none of the employees of the



Nagar Panchayat, Bairginia have been treated to be in service up to 60 years of age and no benefit as such have been passed on to any one of them.

Learned counsel for the State is also present.

Considering the facts and circumstances of the case whereunder it is apparent that the resolution dated 17.02.2006 was subject to the approval of the Department and no such approval has been brought on record before this Court to demonstrate that the resolution dated 17.02.2006 was approved, this Court is not satisfied with the contention of the learned counsel for the petitioner that letter no. 347 dated 11.02.2006 may be taken as an approval of the resolution of the Nagar Panchayat. Even the contention that the letter bearing no. 3577 dated 25.09.2006 (Annexure-10 series to the supplementary affidavit) would indicate that the retirement age of the employees of the Nagar Panchayat had become 60 years by virtue of the policy decision of the Urban Development Department would not change the view of this Court for the simple reason that the Court is conscious that it is not sitting in its writ jurisdiction and no endeavour to adjudicate or draw an analogy from the said letter may be attempted by this Court. The Court will confine its consideration to the specific direction of



the learned Writ Court in paragraph 12 of the Writ Court's order. In the said order it is categorically stated that "In case age of superannuation of its employees has not been increased in the Nagar Panchayat of Bairginia, petitioner shall stand superannuated on completion of his age of 58 years....."

Learned counsel for the petitioner is unable to submit much less on affidavit that any of the employees of the Nagar Panchayat, Bairginia has been treated in service up to 60 years of age and payment has been made to them, therefore, in such circumstance no willful disobedience or disregard to the order of the learned Writ Court could be shown to this Court. This contempt application is not fit to proceed. It is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J)

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