

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1896 of 2016

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Dr. Harendra Bahadur Singh, son of Sri Shyam Sundar Singh, resident of Hospital Road, P.O. Buxar, P.S. Buxar, District-Buxar. Presently posted as Medical Assistant, Indira Gandhi Institute of Cardiology, P.M.C.H. Campus, P.O. Mahendru, P.S.-Pirbahor, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. Sri Anjani Kumar Singh, IAS, the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. Sri R.K. Mahajan, Principal Secretary Health, Medical, Education and Family Welfare, Government of Bihar, Old Secretariat, Patna.
4. Sri Jeetendra Kumar Sinha, Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Old Secretariat, Patna.
5. Dr. Harendra Kumar, Director, Indira Gandhi Institute of Cardiology, P.M.C.H. Campus, Mahendru, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sarvendra Kumar Verma, Adv.
Mr. Jai Vardhan Narayan, Adv.
Mr. Mritunjay Kumar, Adv.

For the Opposite Party/s : Mr. Kumar Manglam, AC to SC-24

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 18-08-2018 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner is alleging willful disobedience and disregard to the order 07.08.2015 passed in CWJC No.95 of 2014. The operative part of the order as contained in paragraphs 16, 17, 18 and 19 reads as under:-

“16. Considering all these issues, this Court would deem it expedient in the ends of justice to direct the State Government, particularly, the Principal Secretary of the Health Department to ensure that follow up action either



for appointment or promotion as per the aforementioned notified rules must be taken and completed as early as possible but not beyond the period of six months from the date of receipt of a copy of this order.

17. It would be also open for the Government now to fill up any post by way of direct recruitment only by following the mandate of the Rules including after issuance of advertisement in heading newspapers on all over India and also fill up promotional post only after finalizing the seniority list of the respective cadres as prescribed in the Rules framed on 31.07.2014 as also undergoing the prescribed procedure in the Rules.

18. The cases of the petitioners of these two cases for their promotion with all other eligible persons shall also be considered only as per the provisions of the Rules dated 31.07.2014 within the same period.

19. This Court must also clarify that from today, no appointment/promotion in any of the posts covered by Rules shall be made in the I.G.I.C till the aforementioned Rules of appointment/promotion dated 31.07.2014 is given effect to in letter and spirit. In other words, the direct appointment on any vacant post in I.G.I.C. as per the Rules shall be made after following the prescribed procedure in the Rules including issuance of advertisement in leading newspapers having an all India circulation and the selection to be made thereafter following the mandate of Articles 14 and 16 of the Constitution of India whereas no promotional in I.G.I.C. post shall be filled up by making any ad hoc and/or interim arrangement but only on strict compliance of the provisions of Rules framed on 31.7.2014.”



The grievance of the petitioner is that while the seniority list of the six cadres as per Rule 3 of the Indira Gandhi Institute of Cardiology has been prepared for the purpose of grant of promotion, no separate seniority list has been prepared in respect of the doctors who are working in the Mobile Coronary Unit. The stand of the petitioner is that the services of the doctors working in the Mobile Coronary Unit belong to a different cadre and as per the direction of this Court in CWJC No.95 of 2014 a seniority list was required to be prepared for which according to learned counsel a separate Rule namely Indira Gandhi Institute of Cardiology governing the terms and conditions of services of the medical officers of the Mobile Coronary Unit has been promulgated.

Learned counsel for the State has relied upon the statements made in the show cause filed on behalf of the opposite party no.3. It is the stand of the opposite parties that direction of this Court has already been complied with. By pointing out the provisions made under the relevant rules wherein six different cadres have been formed, the contention of learned counsel for the petitioner that medical officers of the Mobile Coronary Unit will form a different cadre has been contested pointing out Rule 5 of the Rules of 2014 framed to govern the terms and conditions of



services of the medical officers posted in the Mobile Coronary Unit. According to Rule 5 of the said Rule, the services of a medical officer in the Mobile Coronary Unit will be taken on the recommendation of the Commission from and amongst the medical officers who have been directly appointed in the basic category of medical officer.

Having heard learned counsel for the petitioner and learned counsel representing the State and after going through the pleadings available on the record, this Court finds that in terms of Rule 3 there are six cadres provided of the medical officers in the Indira Gandhi Institute of Cardiology. The learned Writ Court while passing the order dated 07.08.2015 had directed the State to prepare a seniority list of the respective cadres as prescribed in the Rules framed on 31.07.2014 as also undergoing the prescribed procedure in the Rules. The Rule relating to the terms and conditions of services of Mobile Coronary Unit of Medical Officers nowhere talks of any cadre and, therefore, the only inference which may be drawn from the order of the learned Writ Court as contained in paragraph 7 is that the direction is with respect to the preparation of seniority list of the cadres as prescribed in the Indira Gandhi Institute of Cardiology governing the terms and conditions of services of the medical officer notified



on 31.07.2014 of which Rule 3 talks of creation of cadre wherein six cadres have been created.

In the nature of the contest which has been sought to be made before this Court, sitting in its contempt jurisdiction, it would not be possible for the Court to adjudicate upon the issues which are now being raised with regard to the creation of cadre.

This contempt application cannot proceed and is accordingly dismissed.

The petitioner will have definitely liberty to agitate all such issues which they want to take up with regard to the contentions which have been raised now.

(Rajeev Ranjan Prasad, J)

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