

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.261 of 2015

In
Miscellaneous Jurisdiction Case No. 4376 of 2014

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1. The State of Bihar through Sri Anjani Kumar Singh , Chief Secretary, Old Secretariat, Patna, Bihar.
 2. Sri Anjani Kumar Singh, Chief Secretary, Old Secretariat, Patna, Bihar
 3. Mr. Darmand Sing Gangwar, Secretary , Department of personnel and Administrative Reforms , Government of Bihar, Old Secretariat, Patna.
 4. Sri Shamim Ahmad , Deputy Secretary, Department of personnel and administrative Reforms , Government of Bihar Old Secretariate, Patna.
 5. Sri Mithilesh Kumar Singh, Secretary Board of Revenue , Old Secretariate, Patna, Bihar,
 6. Dr. Protama Satisk Kumar Verma , District Magistrate , Sitamarhi.

.... Petitioner/s

Versus

1. Sanjay Kumar Yadav S/o Kuhuk Lal Rai resident of Madhopur Raushan (Bhiss), P.O. Amhatta, Police Station- Dumra, District- Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyan Shankar, Adv.

For the Respondent/s : Mr. Najmul Hoda, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

6 12-02-2018

Heard learned counsel for the petitioner and
learned counsel for the Opposite Party No. 1.



The opposite party no. 1, in the contempt application, being the State of Bihar has preferred the present review application stating that on the date when this order was passed i.e. 22.04.2015, the old Rules for appointment to Class IV (Group –‘D’) posts had been modified vide Gazette Notification No. Patna 207 dated 29.03.2010.

It was pointed out by the review petitioner-State of Bihar, that as per Rules 16 “dealing with repeal” all the circulars, instructions issued earlier with respect to appointment/promotion in Class – IV (Group “D”) , so far as it relates to appointment/promotion etc. of the Peon/Orderly Peon/Chaprasai, shall be deemed to have been repealed with the coming into force of these Rules. It, thus, appears that the undertaking, which was offered to this Court in the contempt application, was but a sham undertaking. Though the advertisement which has been issued spoke of the earlier Rules, the District Magistrate, Sitamarhi appeared, in person, and stated that the steps are being taken towards advertisement which had been issued and it would reach its conclusion within a period of three months from the date of the order from the said date being



22.04.2015. It, thus, appears that while giving undertaking on the said date, the State had full intention of making appointments on the basis of the aforementioned circulars which was not tenable in law as the Review petitioners could not have implemented the same in view of the gazette notification referred to above.

Learned counsel for the State has drawn attention of this Court to a judgment of the Guwahati High Court.

Having perused the said judgment, it appears that the grounds taken in the present review application are wholly contrary, as the matter was well within the scope of the review-petitioners to take the plea at that stage. However, instead of doing so, they chose to give an undertaking and filed the review application. Moreover, the present application is only under the provisions of the CPC and not under Article 215 of the Constitution of India, which makes the application for review misconceived.

The act of the State through its District Magistrate in first issuing the advertisement and then giving an undertaking to this Court does not call for any review of an order, as this Court does not find any error on the face of the record. Such new plea at the stage by the review



petitioners is wholly untenable on both facts and law and is,
thus, rejected.

The Review Application stands dismissed.

(Anjana Mishra, J)

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