

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2005 of 2018

In

Civil Writ Jurisdiction Case No. 4452 of 2012

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1. Dinesh Prasad Singh S/o Late Ram Narayan Singh R/o Prthvipuri, Chirayatand, 1st Lane, P.S. - Kankarbagh, Distt - Patna. A/p posted as Assistant Engineer, Rural Works Department, Sub-Division Madanpur, Works Division Aurangabad.

2. Pankaj Kumar Singh Son of Late Mala Chaudhary R/o Village Maripur, Post & P.S.Phulwaria, Vaya - Bathua Bazar Gopalganj, A/p posted as Assistant Engineer, Rural Works Department, Sub-Division Chapra, Works Division, Chapra - 1, Distt Saran. Petitioner/s

Versus

1. The State of Bihar through Sri Vijay Prakash, the Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Patna.

2. Sri Vijay Prakash, the Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Bihar, Patna.

3. Smt. Sujata Chaturvedi, Principal Secretary, Finance, New Secretariat, Government of Bihar, Patna.

4. Sri Amir Subhani, Principal Secretary, General Administrative Department, Old Secretariat, Government of Bihar, Patna.

5. Sri Vinay Kumar, Secretary, Rural Works Department, Vishweswaraiya Bhawan, Bailey Road, Patna. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Verma, Adv.

For the Opposite Party/s : Mr. Sarvesh Kumar Singh - AAG 13
Mr. Ravi Kumar, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 24-08-2018 Let the defects be ignored.

Heard learned counsel for the petitioners and learned counsel representing the State.

Petitioners are seeking initiation of a contempt proceeding alleging willful disobedience to the order dated 22.05.2015 passed in CWJC No.4452 of 2012. The operative part of the order passed by the learned Writ Court as regards the consideration to be given as to whether new pension scheme



would be applicable or not has already been complied with as even learned counsel representing the petitioners submits that with that respect the opposite parties had passed order and that order is under challenge in a separate writ application. The only controversy now remains is with respect to the seniority aspect which the learned Writ Court had taken note of, made certain observations and issued directions with respect thereto. It is submitted that here is the contempt of the order of the learned Single Judge.

After going through the records, this Court finds that the order of the learned Single Judge was under challenge in LPA No.275 of 2016 which has been disposed off on 24.07.2017. The operative part of the order passed by the Hon'ble Division Bench in the said LPA reads as under :-

“Leave apart the aforesaid issue, we are informed today at the time of hearing by all concerned that the seniority list published is a provisional seniority list and the State Government is yet to finalize the seniority list. Be that as it may, it is not known as to why the writ court was compelled to go into various questions even before the seniority list was finalized by the State Government. Today, learned counsel appearing for the State Government points out that objections have been raised with regard to the provisional gradation list, objections are still coming and the State Government has not finalized the



seniority list. If the seniority list has not been finalized, the cause of action for challenging the seniority would never accrue and it seems that the Writ Court has gone into various aspects without taking note of the fact that the seniority so prepared was a provisional seniority list and the State Government was to still address the question of finalization of the objections and thereafter issue the final gradation list.

That being so, so far as the relief claimed for grant of seniority is concerned; it was premature as the seniority list itself was not finalized. Accordingly, we dispose of the appeal granting each and every employee to file their objections to the seniority, if not already done, within a period of 30 days and thereafter the State Government to consider the objections and publish the final gradation list within three months thereafter. We expect the State Government to publish the seniority list as per the Rules governing the grant of seniority and in publication of the seniority list the order passed by the learned Writ Court impugned in this appeal so far as it relates to any observation with regard to drawing of seniority shall not be taken note of, it shall not be considered by the State Government and the State Government independent of the order passed by the Writ Court with regard to issue of seniority shall decide the objections and thereafter liberty shall be available to any aggrieved person to challenge the final gradation list in accordance with law and the observations and the findings recorded in the writ petition in this regard shall not come in their way.”

This Court having gone through the order of the



Hon'ble Division Bench is of the view that the order of the learned Single Judge has now been diluted in terms of the order of the Hon'ble Division Bench and hence proceeding for contempt cannot be continued alleging violation of the order of the learned Single Judge.

This application is, thus, disposed off in terms stated hereinabove.

(Rajeev Ranjan Prasad, J)

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