

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2591 of 2018**

- Rajendra Prasad Kushaha, aged about 50 years, son of Shri Ramjuthan Ram Kushwaha, Advocate, Member, District Bar Association, Baikunthpur, District Korea (CG), R/o Garhelpara, Baikunthpur, District Korea (CG), presently working as Asst. Public Prosecutor & Asst. Government Pleader, District and Sessions Court, Korea, Baikunthpur (CG)

---- Petitioner**Versus**

1. The State of Chhattisgarh, through the Secretary, Department of Law and Legislature, New Mantralaya, New Raipur, (CG)
2. The Registrar General, High Court of Chhattisgarh, Bodari, Bilaspur (CG)
3. The District and Sessions Judge, Korea, through the Presiding Officer, District Korea (CG)
4. The Collector, District Korea (CG)
5. Mr. V.K. Ekka, Enquiry Officer cum District and Sessions Judge, Korea, Baikunthpur (CG)
6. The District Bar Association, Baikunthpur, District Korea (CG) through its Secretary.
7. Vijendra Prasad Sahu, Advocate, Member, District Bar Association, Baikunthpur, District Korea (CG)

---- Respondents

For Petitioner : Shri PK Patel, Advocate.

For Respondent/State : Shri Prafulla Bharat, Additional AG.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board**

08/10/2018 :

1. The petitioner is practicing Advocate at Baikunthpur, District Korea. He is aggrieved by order (Annexure-P/1) passed by the District and Sessions Judge, Baikunthpur on 12.2.2018 directing him to deposit a sum of Rs.71,600/-, which he has received as remuneration for working as Panel Lawyer in the absence of regular Government Pleader in different Courts in District and Sessions Judge Court at Baikunthpur.
2. The petitioner would contend that he was appointed to work as Panel Lawyer by order (Annexure-P/2) dated 11.10.2006, however, the same appears to be misconceived inasmuch as the said memo emanating from the office of Collector, Korea is only a recommendation to the State Government through Secretary, Department of Law and Legislative Affairs for preparing a panel of Advocates who shall appear on behalf of the State Government in the absence of regular Government Pleader.
3. Shri R.S. Sharma, Principal Secretary, Law and Legislative Affairs Department, Government of Chhattisgarh is present with the record of the subject proceeding.
4. Shri Bharat and Shri Sharma would fairly submit that the record does not contain any further communication issued in the name of either District Magistrate, Baikunthpur or District and Sessions Judge, Baikunthpur approving the list of recommendees vide Annexure-P/2. It is submitted by them that even if the petitioner was not entitled to function as Panel Lawyer at the relevant point of time, the District and Sessions Judge having allowed him and other like candidates to appear for and on behalf of the State Government, the entire issue needs to be addressed and resolved at the appropriate level in the State Government. According to Law Secretary, payment was made by the District and Sessions Judge from the Contingency Fund under the impression that the State Government having not refused to appoint recommendees, it has agreed with the list and thus there was communication gap at the

relevant time in respect of appointment of Panel Lawyers.

5. Having considered the entire issue and on perusal of record, it appears, the petitioner was not at fault while he was allowed to appear as Panel Lawyer by the District and Sessions Judge, Baikunthpur. Therefore, as stated by the Law Secretary, let the petitioner move representation before the State Government in the department of Law and Legislative Affairs within a period of one month from today against the order (Annexure-P/1). On such representation being filed, the concerned Secretary shall take final decision in the matter for regularizing the payment made to the petitioner and like candidates or otherwise, within next 3 months. If the State Government eventually decides to regularize the payment made to the petitioner and other candidates, the amount already deposited by the petitioner shall be paid to him within a period of 2 months from the date of decision.
6. With the aforesaid observation/direction, the Writ Petition stands disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

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