

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 3642 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 6019 of 2007

Shiva Kant Tiwary son of Late Ram Yash Tiwary, Resident of Harmandir Gali, P.S. Chawk Patna City, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shri R.K. Mahajan, the Commissioner-cum-Secretary, Higher Education, Human Resources, Govt. of Bihar, New Secretariate, Patna.
3. Shri Pratiyush, the Finance Commissioner, Govt. of Bihar, Patna.
4. Md. Istiyak, the Vice Chancellor, Magadh University, Bodh Gaya, Gaya.
5. Dr. Sitaram Singh, the Registrar, Magadh University, Bodh Gaya, Gaya.
6. Sri Sardar Dalvir Singh, the Principal, Sri Guru Govind Singh College, Patna City, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Satish Kumar Sinha and Ms. Rekha Kumari, Advocates
For the State	:	Mr. Amarendra Kumar, AC to AAG 15
For the Magadh University	:	Dr. Kumar Amitesh Chandra, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 15-07-2019

Heard Mr. Satish Kumar Sinha, learned counsel for the petitioner; learned AC to AAG 15 for the State and Dr. Kumar Amitesh Chandra, learned counsel for the Magadh University.

2. The petitioner has moved the Court alleging willful violation of the order dated 02.09.2011 passed in CWJC No. 6019 of 2007. The operative portion of the order reads thus:

“It goes without saying that if the petitioner’s services have been legally absorbed in



terms of the direction of the Apex Court, while approving the report of Justice S.C. Agarwala Commission, he would also be entitled for arrear of salary as has been paid to similarly situated persons.”

3. From the materials on record, it transpires that the petitioner's name was not in the Justice S. C. Agarwala report and, thus, was not recommended by the Hon'ble Supreme Court. However, in the second round of litigation, the Hon'ble Supreme Court once again referred the matter to Justice S.B. Sinha, for submitting a report. The petitioner had filed an application there but before any report being submitted, he withdrew the same.

4. Learned counsel for the petitioner submitted that he had withdrawn the application for taking steps before the appropriate authorities.

5. Be that as it may, in view of the fact that the Court is only looking at the issue from the point of view as to whether there is contempt of the order of the Court dated 02.09.2011; in the considered opinion of the Court, the authority was only required to see as to whether the name of the petitioner was recommended by Justice S. C. Agarwala Commission and pursuant thereto, the Hon'ble Supreme Court has recommended case. The writ Court had made it clear that only if the said two



conditions were fulfilled, the petitioner would be entitled to arrears of salary.

6. In view thereof, there cannot be any question of contempt by the authorities.

7. However, as the petitioner has chosen to move before the Competent Authority after withdrawing his case from the Justice S.B. Sinha Commission, the Court would only observe that the same would be dealt with, in accordance with law, by the Authority before which the petitioner may move with regard to his grievance in the matter.

8. The application stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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