

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2402 of 2017

In
Civil Writ Jurisdiction Case No.17717 of 2016

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Most. Jaimun Nisha W/o Late Md. Hafiz Resident of Mohalla - Raghobpur,
Bhauara, Ward No. 28, P.O. P.S. District - Madhubani, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through Sri Chaitanya Prasad, son of not known the Secretary Urban Urban Development Housing Department, Government of Bihar, New Secretariat, Patna.
2. The Nagar Parishad, Madhubani through its Executive Officer, Shri Jatashankar Jha

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashutosh Kumar Jha, Advocate
For the Opposite Party/s : Mr.Yogendra Prasad Sinha - Aag 7

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 01-05-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application under Section 12 of the Contempt of Courts Act read with Article 215 of the Constitution of India has been filed by the petitioner for initiation of contempt proceeding against opposite parties for their willful disobedience of the order dated 17.03.2017 passed in CWJC No. 17717 of 2016.

3. By the aforesaid order dated 17.03.2017, the Executive Officer, Nagar Parishad, Madhubani was directed to pay all the retiral dues of the petitioner within a period of four months from the date of receipt/production of a copy of this order failing



which the petitioner was made entitled to receive interest at the rate of seven per cent per annum from the date the payment had become due till the date of actual payment.

4. Learned counsel for the petitioner contended that in the light of the order passed by this Court, a representation was filed by the petitioner on 27.03.2017 annexing a copy of the order dated 17.03.2017 passed in CWJC No. 17717 of 2016. However, no payment was made to the petitioner within the stipulated period of four months. He contended that the opposite parties have failed to pay the retiral dues and their action amounts to willful defiance of the order passed by this Court.

5. A show-cause has been filed on behalf of opposite party nos. 2 and 3. Para-3 of the show-cause reads as under :-

“3. That it is humbly stated and submitted that the Petitioner has been paid part of the retiral dues of her husband as Rs.15,000/- earlier and the rest amount of Provident Fund of Rs.7841/- and Gratuity Rs.3,53,430/- and Earn leave of Rs.2,13,486/- Total bearing Rs.5,74,757/- Rs.15,000/-=Rs.5,59,757/- has been paid to her vide Cheque No. A 863492 dated 20.01.2018 and further a sum of Rs.3,30,106 as arrear salary total being Rs.8,89,863/- has been paid to her.”

6. Learned counsel appearing for the Executive Officer, Nagar Parishad, Madhubani has submitted that it is not a



case of either willful or deliberate non-compliance by the opposite parties. The order passed by this Court has been fully complied with. The delay of few months occurred due to non-availability of fund for which the deponent has tendered unqualified and unconditional apology. He submitted that though there was no order for payment of revised arrear on the basis of 5th and 6th pay revision, the Nagar Parishad has presented the matter and the State Government has allowed the same recently on 27.12.2017. The payment as per revised arrears would also be made soon after the fund is received from the State Government.

7. Having considered the show-cause and the submissions made on behalf of the parties, I am of the opinion that since there is neither any deliberate nor willful non-compliance of the order passed by this Court, no case for initiation of contempt proceeding against the opposite parties is made out.

8. The application stands disposed of.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.05.2019
Transmission Date	NA

