

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Jurisdiction Case No. 2339 of 2014**

**Arising out of**

**Civil Writ Jurisdiction Case No. 17873 of 2009**

Dr. Nand Kishore Nawal, Son of Late Nagendra Prasad Singh, Resident of  
-Suwash Niwas, Mohalla-Rikabganj, P.S.-Tekari, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shri Amir Subhani, the Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna.
3. Shri Dipak Kumar, the Secretary, Department of Health, Government of Bihar, Patna.
4. Shri S. S. Pati Mishra, the Deputy Secretary, Department of Health and Family Welfare, Government of Bihar, Patna.
5. Sri Dipak Kumar Verma, the Under Secretary, Department of Health, Government of Bihar, Patna.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate  
For the State : Mr. Alok Kumar Rahi, AC to GP 21

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

**ORAL JUDGMENT**

**Date : 27-06-2019**

Heard learned counsel for the petitioner and learned AC  
to GP 21 for the State.

2. On 09.05.2019, the Court had recorded the following:

*“Learned counsel for the opposite parties invites reference to the supplementary show cause filed on 11.09.2018, inter alia, stating that against the dismissal of the judgment passed in LPA No. 1582 of 2014 by order dated 22.03.2018, the opposite parties have decided to file an appeal before the Hon’ble Apex Court and for which the file has been sent to the Law Department on 04.05.2018.*



2. *Despite more than a year having elapsed thereafter, there is nothing to indicate that any appeal against the LPA judgment has been filed before the Hon'ble Apex Court.*

3. *Learned counsel for the opposite parties seeks six weeks' time to show compliance of the writ Court dated 17.07.2013, subject to final result of any appeal as may have been filed before the Hon'ble Apex Court.*

4. *In the above view of the matter, let this case be listed on 20.06.2019 to enable the opposite parties to show full compliance of the order of the writ Court."*

3. Today, supplementary show cause has been filed on behalf of opposite party no. 3, in which the following has been stated at paragraphs no. 5 to 10:

*"5. That at the outset, it is humbly submitted that the answering opposite parties have not violated the order dated 17.07.2013 passed in CWJC No. 17873/2007 by this Hon'ble Court, as the State of Bihar preferred an appeal against the order under compliance bearing LPA No. 1582 of 2014 which was dismissed by Hon'ble Division Bench of this Court by an order dated 22.03.2018.*

*6. That thereafter, the State of Bihar has decided to prefer an appeal before Hon'ble Apex Court and all procedural steps have been completed for filing the SLP against the judgment and order dated 22.03.2018 passed in LPA No. 1582 of 2014 and the proposed SLP is to be file before Hon'ble Apex Court.*

*7. That it is humbly submitted that however, the Health Department, Govt. of Bihar in order to ensure compliance of the order dated 17.07.2013 passed in CWJC No. 17873/2007 has decided to reinstate the petitioner in service subject to outcome of proposed SLP.*

*8. That it is humbly submitted that for ensuring compliance of the order under reference, the proposal of reinstatement of the petitioner has*



*been sent to the Cabinet Secretariat on 11.06.2019 for placing it before the State Cabinet for its approval.*

*9. That it is humbly submitted that as soon as the necessary approval of the State Cabinet is obtained immediately thereafter, the necessary order will be issued in accordance with law.*

*10. That in view of the aforesaid facts and circumstances, the answering opposite parties humbly pray that at least 6 weeks further time may kindly be allowed for ensuring compliance of the order under reference.”*

4. In view of the aforesaid, the Court finds that the authorities themselves have agreed to comply with the order subject to the outcome of the proposed SLP before the Hon'ble Supreme Court. Thus, the order of the writ Court stands substantially complied with. Accordingly, the Court does not deem it necessary to keep the present petition pending, which accordingly, stands disposed off.

5. Before parting, the Court is persuaded to note that despite the order passed in LPA No. 1582 of 2014 on 22.03.2018 and the Court in the present proceeding on 09.05.2019 observing that the authorities have decided to file an appeal before the Hon'ble Supreme Court and the Court adjourning the matter, even in the affidavit filed today, it has been stated that procedural steps have been completed for filing SLP. The Court is constrained to observe that there is no justifiable reason for the authorities not to take immediate and prompt action in the matter, if they are



confident on merits, moreso when there is a contempt pending. This may be a clear indication of connivance of the officers. The Court, thus, directs that this aspect of the matter be also looked into by the Chief Secretary, Government of Bihar, which is required to be taken serious note of and corrective action taken, for ultimately it is the public cause which suffers by such action/inaction/ misconduct of persons holding public office.

6. Learned counsel for the State as also the Registry shall communicate the order to the Chief Secretary, Government of Bihar for taking steps in light of the observations made hereinabove.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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