

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4208 of 2016

In
Civil Writ Jurisdiction Case No.3460 of 2016

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1. Anaupcharik Shiksha Anudeshak Seva Sangathan through State General Secretary, Md. Jamaluddin Ansari in the post of General Secretary, son of Md. Rahmat Ali Resident of Village - Nisarpura, Police Station - Rampur Chiram, District - Arwal.
 2. Sri Manohar Singh Son of Sri Bhola Singh Resident of Village - Mudhi, Police Station - Chainpur, District - Kaimur at Bhabua in the post of State President.
 3. Basgeet Ram Son of Late Likhi Ram Resident of Village - Sukhdevan Bigha, Police Station - Daudnagar, District - Aurangabad in the post of State Secretary.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Old Secretariat, Government Of Bihar, Patna Namely Sri Anjani Kumar Singh
2. The Principal Secretary, Department of Mass Education, Government of Bihar, Patna, namely Sri R.K. Mahajan
3. The Principal Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna namely, Sr. D.S. Gangwar
4. The Director, Primary Education, Department of Human Resources Development, Government of Bihar, Patna namely, Sri M. Ramachandra Tudu
5. The Director, Mass Education, Department of Education, Government of Bihar, Patna, namely Sri Binodanand Jha

... .. Opposite Party/s

with

Miscellaneous Jurisdiction Case No. 1707 of 2017

In

Civil Writ Jurisdiction Case No.22600 of 2011

1. Bihar Pradesh Anopcharik Sah Vishesh Shiksha Anudeshak Mahasangh, Gaya (Registered) Through Kumari Mamta Devi General Secretary, Wife of Pradeep Kumar R/o Village - Kurmitola/Sudhitola Manpur, P.O. Buniyadganj, P.S. - Muffasil, District - Gaya, PIN - 823003.
2. Vinay Kumar Treasurer (Registered) Bihar Pradesh Anopchark Sah Vishesh Shiksha Anudeshak Maha Sangh through Kumari Mamta Devi General Secretary, (Vinay Kumar S/o Mundrika Singh, R/o Rato Khurd, P.O. and P.S. Fatehpur, District - Gaya - 824232.
3. Ram Chandra Prasad Yadav S/o Brahmddeo Prasad Yadav resident of village - Kanhaul, P.O. Mortal, P.S. - Bodhgaya, District - Gaya.



... .. Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary, Human Resources Department (H R D), New Secretariat, Vikash Bhawan Bailey Road, Patna namely, Sri R.. Namely Sri R. K. Mahajan I.A.S.
2. The Director (Primary Education), Human Resources Development Department, Government of Bihar, Vikash Bhawan Bailey Road, Patna namely, Sri R.. Namely Sri S. Ramchandra Tuddu I.A.S.
3. The Director, Mass Education, Government of Bihar, Patna namely Sri Binodanand Jha.
4. The Commissioner, Magadh Division, Gaya namely Sri Jitendra Srivastava, I.A.S.
5. The District Education Officer, Gaya namely Sri Thakur Manoranjan Prasad.

... .. Opposite Party/s

Appearance :

(In Miscellaneous Jurisdiction Case No. 4208 of 2016)

For the Petitioner/s : Mr.Rajeev Lochan, Advocate

For the Opposite Party/s : Mr.Ashutosh Ranjan Pandey, Aag15

(In Miscellaneous Jurisdiction Case No. 1707 of 2017)

For the Petitioner/s : Mr.Bishwajeet Kumar, Advocate

For the Opposite Party/s : Mr.Ashutosh Ranjan Pandey - Aag15

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 22-08-2019

These two cases have been put in category IV for the reasons that in both the applications the petitioners are Unions claiming that they are representing the cause of their members.

In M.J.C. No. 4208 of 2016 arising out of C.W.J.C. No. 3460 of 2016 disposed of on 11.08.2016 one Anupcharik Shisha Anudeshka Seva Sangathan represented through it's State General Secretary is petitioner no. 1. Petitioners no. 2 and 3 are the



President and Secretary of the Sangathan who are petitioners by their respective names.

In M.J.C. No. 1707 of 2017 the Bihar Pradesh Anopcharik Sah Vishesh Shiksha Anudeshak Mahasangh is petitioner no. 1. Vinay Kumar, who claims himself to be Treasurer of the petitioner no. 1, is petitioner no. 2 and the petitioner no. 3 is one Ram Chandra Prasad Yadav.

We will deal with both the cases hereunder taking note of their respective facts.

Re. M.J.C. No. 4208 of 2016

In this contempt application the petitioners are alleging willful disobedience and disregard to the order dated 11.08.2016 passed by the learned Writ Court in C.W.J.C. No. 3460 of 2016.

It is the case of the petitioners that the said writ application was filed prior to the cut-off date i.e. 26.02.2016 but when the writ application came to be disposed of, the learned Single Judge passed the following orders:

“All intervention applications filed for impleadment as petitioners are rejected. The rejection will not come in their way for seeking individual relief.

So far as writ application of the petitioners is concerned, keeping in view the decision rendered by the learned Single Judge affirmed by the Division Bench as well as the Hon’ble Supreme Court in SLA (Civil) No. 32079 of 2015, the State authorities are directed to consider their claim as well.

The writ application is disposed of with the above direction.”



It appears that in the writ application the petitioner no. 1 did not disclose the name and number of members on whose behalf the writ application was sought to be filed. No court fee was paid on behalf of the petitioners for whose benefit the reliefs were claimed. It further appears that after the judgment of the Hon'ble Supreme Court dated 26.02.2016 fixing the same as cut-off date for consideration, a large number of intervention applications were filed before this Court in the pending writ application. The status report on the website of the High Court shows all these intervention applications were filed after 26.02.2016. The learned Writ Court perhaps appreciated this fact leading to rejection of all the intervention applications. Now in the contempt application the petitioner-Union is looking for absorption of a large number of persons who are said to be the members of the union.

In paragraph '6' of the contempt application a statement has been made that there are 5156 number of members in Union and therefore, they should be allowed to participate in the counseling and their folders may be called for consideration of their respective claims. In the last affidavit which is by way of rejoinder on behalf of the petitioners to the supplementary show cause filed on behalf of the opposite parties in the present contempt application, now the petitioners have made statements in



paragraph 17 that they have submitted a list of 2855 Instructors who had worked for more than 3 years and were eligible for consideration. The petitioners have admitted that though they had disclosed the number of members in the initial list at 5156 but after scrutiny the petitioners association has submitted a list of only 2855 Instructors with their Bio-Data.

The stand of the Opposite parties is that in the main writ application there were only three petitioners and it is only subsequently by filing supplementary affidavit on 18.03.2016, the petitioner association introduced 5156 numbers as petitioners in order to circumvent the restrictions imposed by the Hon'ble Supreme Court in its order dated 26.02.2016. It is their stand that as per the direction of the Hon'ble Supreme Court only those Non-Formal Instructors who had filed an application before 26.02.2016 in this Court or Hon'ble Apex Court were to be considered for their absorption subject to fulfillment of other conditions. It is further stand of the opposite parties that the claim of the members of the petitioner's Sangh has been rejected for the reason stated hereinafter:

I. In the writ petition, no exact or approx number of the total members of the registered Sangh is mentioned. There was no evidence like register of members which shows the number of members of the Sangh at the time of filing of the writ petition. The number of members i.e. 5156 was indicated to the Hon'ble Court on 18.03.2016 which is after the cutoff date (26.02.2016) fixed by the Hon'ble Apex Court. That



it appears that these members were inducted to extend the benefit and provide back door entry to those individuals who were not fit to be considered as they had not approached the Hon'ble Court on or before Cutoff date.

II. When the proceedings of the meetings of the registered Sangh were examined it was found that not more than 100 members used to attend these meetings whereas the number of members claimed by this Sangh is 5156 which is highly improbable.

III. Also after examining the receipts submitted by this Sangh, a bare perusal of the same would indicate that all the receipt has been issued by one person and it further appears that the same has been prepared very recently. Most of the members were made on same date and it appears that these documents are prima facie forged and fabricated.

IV. As per the deadline fixed by the Hon'ble Apex Court it is clear that the Sangh has only three members and there was no trace of any other member before the cut-off date and only those are fit for consideration light of the restriction imposed by the Hon'ble Supreme Court vide order dated 26.02.2016 passed in the S.L.P. (Civil) 32079 of 2015.

It is also pointed out that the Hon'ble Division Bench of this Court in M.J.C. No. 809 of 2012 vide its judgment and order dated 23.07.2018 held in paragraph 26 of the said judgment.

“26. What we find from the facts of the present contempt application that the various Unions/Associations did not disclose the name of their members at the writ stage or even before the Hon'ble Supreme Court when the order dated 26.02.2016 was being passed. We are inclined to agree with the stand taken on behalf of the respondent no. 3 that all such members whose name was not disclosed either before this Court or before the Hon'ble Supreme Court and who had not moved this Court on or before 26.02.2016 (hereinafter referred to as the cut off date), they cannot maintain a contempt application before this Court alleging willful disobedience or disregard to the order passed by the Writ Court as respect them. Thus, the contempt application at their instance cannot proceed.”



It is further submitted that the judgment of the Hon'ble Division Bench of this Court in M.J.C. No. 809 of 2012 has attained finality, inasmuch as, the Special Leave Petition preferred against the same vide Special Leave to Appeal bearing No. 26469 of 2018 was dismissed *in limine*.

Re. MJC No. 1707 of 2017

In this contempt application the petitioners have alleged willful disobedience and disregard shown to the order dated 17.01.2017 passed in C.W.J.C. No. 22600 of 2011 (Bihar Pradesh Anopchaarik Sah Vishesh Shiksha Anudeshka Mahasangh, Gaya Vs. The State of Bihar & Ors.). The order passed by the learned Writ Court would show that by a common judgment the learned Writ Court disposed of the analogous writ application(s) with direction to the respondents State to take decision in the matter in terms of the order of the Hon'ble Supreme Court.

In terms of the judgment of the learned Writ Court the petitioner Maashangh is said to have made a representation vide Annexure '2' to the present application in which the Mahasangh claimed that it has got 1816 members, a list of the members was enclosed with the representation dated 17.05.2017. Again it is evident from the records that the name and number of these members of the Mahasangh were not disclosed either in the



writ application or subsequently on or before the cut-off date i.e. 26.02.2016. In the contempt application, however, the petitioners are looking for absorption of all the members.

The opposite parties have filed their stand in which it has been stated that the Union/Association did not disclose the name of their members at the right stage either before this Court or even before the Hon'ble Supreme Court. Attention of this Court has also been drawn towards paragraph '26' and '28' of the order dated 23.07.2018 passed by Hon'ble Division Bench of this Court in M.J.C. No. 809 of 2012. Paragraph '26' has already been taken note of hereinabove dealing with M.J.C. No. 4208 of 2016. Paragraph '28' of the said judgment is extracted hereunder for a ready reference:

“28. We have already quoted the relevant parts of the judgments and order of this Court and that of the Hon'ble Supreme Court of India, hereinabove which will be the guiding factor for the learned Writ Court. The learned Writ Court shall consider the individual writ applications where the petitioner(s) would be first obliged to demonstrate that he/they had earlier moved this Court or the Hon'ble Supreme Court of India on or before the cut off date. Once this condition is satisfied, the learned Writ Court may in such cases where the claim of the individual has not been considered by the respondent, proceed with the contempt application but where considerations have been given by the respondents but the individual claim of the petitioner has been rejected for any reason whatsoever, the reasons so prescribed would be required to be tested by the learned Writ Court on the basis of the pleadings and submissions in accordance with law. So far as the various Associations and Unions are concerned, they cannot



allege willful disobedience or violation of the order of the learned Writ Court as respect the persons whose names were not disclosed by those Associations or Unions either before this Court or before Hon'ble Supreme Court of India by the cut off date."

Reference has also been made to the order dated 10.10.2018 by a learned Single Judge (one of us Hon'ble Mr. Rajeev Ranjan Prasad) in M.J.C. No. 3604 of 2013 wherein following the judgment of the Hon'ble Division Bench in M.J.C. NO. 809 of 2012 it has been held that the contempt application preferred by the Association/Unions in which the individual name of the persons are not disclosed cannot be maintained.

Having heard learned counsel for the parties and on perusal of the records, we find no reason to take a different view from what have been taken by the Hon'ble Division Bench of this Court in M.J.C .No. 809 of 2012. Paragraphs '26' and '28' of the aforesaid judgment have been extracted hereinabove and that would lead us to conclude that these two contempt applications cannot be pursued on behalf of the Unions to compel the State respondents to absorb it's members whose names and numbers were not disclosed either before this Court or before the Hon'ble Supreme Court by way of an appropriate application on or before the cut-off date 26.02.2016. In fact this issue has been set at rest in the judgment of this Court in M.J.C. No. 809 of 2012. A challenge



to the said judgment before Hon’ble Supreme Court in Special Leave to Appeal No. 26469 of 2018 has already failed.

We agree with the submissions and the reasons shown by the State respondents for not absorbing the members of the petitioners Association /Mahasangh. The other petitioners who were parties in their individual name in the writ application would only qualify for consideration and therefore, the State respondents shall consider their cases in similar manner as have been done in respect of Category-I cases.

Both the contempt applications are thus, disposed of in terms stated hereinabove.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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Uploading Date	
Transmission Date	

