

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18196 of 2016

Dr. Nawal Kishore Singh, son of Late Jagdish Narayan Singh, resident of Village-Rajajan, P.S.-Mohiuddin Nagar, District-Samastipur, at present posted as Professor and Head of Department of Oral Surgery in Patna Dental College and Hospital, Patna, Ashok Raj Path, P.S.-Pirbahore, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Medical Education & Family Welfare Department, New Secretariat, Vikash Bhawan, Patna.
2. The Principal Secretary, Health Medical Education & Family Welfare Department, New Secretariat, Vikash Bhawan, Patna.
3. The Additional Secretary, Health Medical Education & Family Welfare Department, New Secretariat, Vikash Bhawan, Patna.
4. The Deputy Secretary, Health Medical Education & Family Welfare Department, New Secretariat, Vikash Bhawan, Patna.
5. Officer on Special Duty, Health Medical Education and Family Welfare Department, New Secretariat, Vikash Bhawan, Patna.
6. Dr. D.K. Singh, son of Late Harihar Prasad Singh, resident of Village-Hamatha, Police-Station-Pakaridayal, District-East Champaran, at present Professor-In-charge, Patna Dental College and Hospital, Ashok Raj Path, P.S.-Pirbhore, District-Patna.

... .. Respondent/s

with

Miscellaneous Jurisdiction Case No. 2771 of 2016

Dr. Nawal Kishore Singh, son of Late Jagdish Narain Singh, resident of Village- Rajajan, P.S.- Mohiuddin Nagar, District- Samastipur, presently posted as Professor and Head of Department of Oral Surgery in Patna Dental College and Hospital, Patna, Ashok Raj Path, P.S.- Pirbahore, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sri R.K. Mahajan S/o Name not known to the petitioner, Principal Secretary, Health and Medical Education Department, Government of Bihar, Patna.
3. Sri Jitendra Kumar Shrivastava, Secretary Health and Medical Education- Cum-Executive Director, Health Society.
4. Sri Shjekhar Chandra Verma, S/o Name not known to the petitioner, Secretary, Health and Medical Education Department, Government of Bihar, Patna.
5. Sri Dr. Ranjit Kumar, S/O Name not known to the petitioner, O.S.D., Health and Medical Education Department, Government of Bihar, Patna.
6. Dr. D.K. Singh, son of Late H.P. Singh, resident of Village- Harnatha, Police Station- Patahi, District- East Champaran, posted in Dental College, Patna.

... .. Opposite Party/s



Appearance :

(In Civil Writ Jurisdiction Case No. 18196 of 2016)

For the Petitioner/s : Mr. S. K. Ghosh, Sr. Adv.
Mr. Prabhat Kumar Singh, Adv.
For the Respondent-State: Ms. Kalpana, AC to GA-8.
For the Respondent No.6: Mr. Arup Kumar Chongdar, Adv.
Md. Nazir Ansari, Adv.

(In Miscellaneous Jurisdiction Case No. 2771 of 2016)

For the Petitioner/s : Mr. S.K. Ghosh, Sr. Adv.
Ms. Manisha Singh, Adv.
For the Opposite Party/s : Ms. Kalpana, AC to GA-8.
For the Respondent No.6: Mr. Arup Kumar Chongdar, Adv.
Md. Nazir Ansari, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date : 06-02-2019

Re: CWJC No.18196 of 2016:

The writ petition is filed to question the order bearing Memo No.655(17) dated 06.09.2016 of the Principal Secretary, Department of Health, whereby the respondent no.6 is declared senior to the petitioner which decision, according to the writ petitioner who is also the petitioner in the contempt application, is contrary to the direction/observation of this Court as present in the judgment and order dated 19.08.2014 passed in CWJC No.6298 of 2011, a copy of which is enclosed at Annexure-22 to the writ petition.

It is while this matter is pending consideration before this Court that the writ petitioner has superannuated on 31.01.2019 and thus the issue of inter-party seniority has become academic. In such situation, Mr. S.K. Ghosh, learned senior counsel appearing for the petitioner with the assistance of



Mr. Prabhat Kumar Singh, learned Advocate on record on instruction so received does not choose to press the writ petition and which is accordingly disposed of as such.

Re: MJC No.2771 of 2016:

In so far as the contempt application arising from MJC No.2771 of 2016 is concerned, according to Mr. Ghosh, the contempt application survives because the order so passed is in teeth of the observation/direction of this Court as present in the judgment and order passed in CWJC No.6298 of 2011 and thus he is advised to press the contempt application on merits.

The orders passed on the proceedings show that vide order passed on 07.03.2018 in MJC No.2771 of 2016, the contempt application was directed to be heard analogous with CWJC No.18196 of 2016 and it is by virtue of the said order that the contempt application along with writ petition was posted before this Court for hearing and disposal.

As noted above, it is while, the matters remained pending for disposal that the writ petitioner has superannuated on 31.01.2019 thus making the inter-party contest on seniority academic and for which reason the petitioner perhaps has chosen not to press the writ petition but does wish to press the contempt application.



In my opinion, since the Bench passing the judgment and order in CWJC No.6298 of 2011 which is the subject matter of MJC No.2771 of 2016 is much available and it is because the writ petition questioning the follow up consequential action and the order so passed, was pending consideration that the two applications were made analogous. However, that the writ petition itself has been disposed of as not pressed, the contempt application is to be heard and since the Bench passing the order which is subject matter of the contempt application is much available, I am of the opinion that the contempt matter be placed before the same Bench.

Accordingly, let MJC No.2771 of 2016 go out of my list to be placed before Hon'ble Mr. Justice Shivaji Pandey after obtaining permission of Hon'ble the Chief Justice.

(Jyoti Saran, J)

Anjula/Skpathak

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.02.2019
Transmission Date	NA

