

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 847 of 2018

Arising out of

Civil Writ Jurisdiction Case No. 5861 of 2014

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Brahmdeo Mandal, Son of Late Bhola Mandal, Resident of Village-Bageshwari, P.O. Shampur, P.S. Haweli Kharagpur, District – Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary namely Sri Chaitanya Prasad, Urban and Housing Department, Government of Bihar, Patna.
2. Sri Chaitanya Prasad, the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. Sri Narendra Kumar Singh, the Joint (Special) Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
4. Sri Uday Kumar Singh, the District Magistrate, Munger.
5. Sri Shyamal Kishor Pathak, the Executive Officer, Munger Municipal Corporation/Nagar Parishad, Munger.
6. Sri Arun Kumar Singh, the Treasury Officer, Munger.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shambhu Sharan Singh, Advocate
For the Corporation	:	Mr. Shivendra Kumar Sinha, Advocate
For the State	:	Mr. Y. P. Sinha, AAG 7
		Mr. Shankar Kumar, AC to AAG 7

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

ORAL JUDGMENT

Date : 14-08-2019

Heard learned counsel for the petitioner; learned AC to AAG 7 for the State and learned counsel for the Munger Municipal Corporation (hereinafter referred to as the ‘Corporation’).

2. The petitioner has moved the Court alleging non compliance of the order dated 19.05.2016 passed in CWJC No. 5861 of 2014.



3. The writ petition was disposed off in the following terms:

“Mr. Bhagat, learned counsel appearing for the Corporation, submits that the scheme of pension, in view of paucity of fund, has not been introduced in Munger Municipal Corporation. He submits that as soon as the same is introduced, the petitioner and other similarly situated employee would be paid his/her pension.

This Court would like to point out at this juncture that if any employee has got pension, who has retired subsequent to the petitioner, there would be no reason why the petitioner should also not be paid his pension. The Corporation will take appropriate decision in the matter within a period of two months from the date of receipt of a copy of this order.”

4. From the aforesaid, it is clear that the direction of the Court was limited to the extent that the Corporation was required to take a decision relating to grant of pension to its employees and further that if any person who has superannuated subsequent to the petitioner was getting pension, the petitioner should also be paid his pension. From the materials on record, it is clear that after the order was passed, the Corporation had paid pension to its retired employees for one month only, though on different dates.

5. Learned counsel for the Corporation took a categorical stand that they do not have sufficient fund to pay pension and except for that one month pension, which was also paid to the petitioner, no employee was getting pension.



6. Having regard to the aforesaid, the Court finds that the authorities cannot be held guilty of contempt as there is no disobedience of the order of the Court dated 19.05.2016 by them.

7. In view thereof, the application stands disposed off.

8. However, the Court would clarify that disposal of the present matter is not a comment on the issue as to whether the petitioner is entitled to pension and for what period. The same is left open to be decided in an appropriate proceeding between the parties, before the appropriate forum.

(Ahsanuddin Amanullah, J.)

P. Kumar

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