

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3603 of 2017

In
Letters Patent Appeal No.67 of 2016

-
-
1. Mritunjay Kumar Singh S/o Sri Ram Naresh Singh R/o Village - Bhindiya, P.O. - Narayanpur, P.S. - Madhoura, District - Saran (Chapra) at present posted in Utkramik Middle School, Bangra Bazar, Anchal Sahebganj, District - Muzaffarpur.
 2. Pushpraj Padmakar S/o Shri Madan Prasad Singh, R/o Village - Madhopur Hazari, P.S. - Sahebganj, District - Muzaffarpur presently posted in Rajkiya Primary Middle School, Bangra Gachhi Tola, Sahebganj, District - Muzaffarpur.
 3. Sabita Kumari W/o Sanjay Kumar, r/o Village Madhopur Hazari, P.S. - Sahebganj, District - Muzaffarpur presently posted in Govt. Upgraded Middle School Bangra Gachhi Tola, Sahebganj, District - Muzaffarpur.

... .. Appellants-Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mr. R. K. Mahajan, Education Department, Govt. of Bihar, Patna.
2. Mr. Ramchandra Tuddu, Director, Primary Education, Govt. of Bihar, Patna.
3. Mr. Dharmendra Singh, the District Magistrate, Muzaffarpur.
4. Mr. Mustafa Hussain Mansuri, The District Programme Officer (Establishment), Muzaffarpur.
5. Mr. Lalan Prasad Singh, District Education Officer, Muzaffarpur.
6. Md. Unus Salim, the Block Development Officer, Sahebganj, Muzaffarpur.
7. Mr. Chandrashekhar Das, the Block Education Officer, Sahebganj, Muzaffarpur.
8. Mr. Sudhir Kumar Sahi, the Panchayat Secretary, Panchayat Raj Bangara-Nizamat Block - Sahebganj, Muzaffarpur.
9. Mr. Ranjeet Kumar the Head Master, Govt. Utkramit Middle School, Bangra Bazar Anchal Sahebganj, Muzaffarpur.

Respondents. -Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Tiwary, Advocate
For the Opposite Party/s : Mr. Ashutosh Ranjan Pandey - AAG 15

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 04-09-2019

Heard learned counsel for the petitioners and the



learned AAG for the State.

This contempt application has been filed alleging willful disobedience and disrespect shown to the order dated 29.08.2017 passed by the Hon'ble Division Bench in LPA No.67 of 2016 and its analogous matter being LPA No.106 of 2016. The relevant operative part of the order of the Hon'ble Division Bench is extracted herein below:-

“4. With only 20 marks added to the marks of Surendra Mahto (private respondent no. 14), his total marks do not added up to give him the benefit of continuance on the post of a Panchayat Teacher as the other respondents have more marks in terms of the percentage minus the weightage as such. It is, therefore, clarified that Surendra Mahto shall stand removed from his post as a Panchayat Teacher forthwith and so far as the respondents no. 13 (Sohan Mahto and Kumari Anju) are concerned, since the learned Single Judge has allowed Sohan Mahto and Kumari Anju to continue to work on the post of Panchayat Teacher, no interference with that part of the direction or observation is required. It is expected that the two writ petitioners, Kumari Anju and Sohan Mahto, who are respondent no. 13 in these appeals, will continue in service as if they were not disturbed.”

On the last date when the matter was taken for



consideration, learned counsel for the petitioners made a statement that the petitioners have not been paid their salary in terms of the order of the learned Single Judge for the period they had worked and further the petitioners claimed that they are still being allowed to continue during the pendency of Letters Patent Appeal.

In view of the aforesaid submission, we passed the following order on 07.08.2019:-

“It is the grievance of the petitioner in the present application that despite there being a categorical finding and direction recorded in paragraph 44 and 47 of the learned Single Judge Judgment in M.J.C. No. 1044 of 2014 that if the respondents no. 14, 15 and 16 have worked earlier they shall be entitled for their salary, they have not been paid their salary till date. It is also claimed that respondents no. 14, 15 and 16 were never dislodged by virtue of the judgment of the learned Single Judge and in fact they were allowed to continue during the pendency of Letters Patent Appeal.

Learned AAG 15 submits that he will get instruction and file supplementary show cause answering those issues on the next date.

List this matter after two weeks on 21.08.2019.”

Today, learned counsel for the petitioners submits



that on 03.09.2019, i.e., yesterday, the petitioners have been removed and the letter issued by the District Programme Officer (Establishment), Muzaffarpur has been made available to petitioner no.1. It is his submission that the removal of the petitioners during the pendency of the present contempt application is a further willful disobedience of the order of this Court and hence not only the order of removal be set aside, a proceeding for contempt be also initiated against the opposite parties-contemners.

Learned AAG for the State has opposed the contempt application as well as interlocutory application being I.A. No.01 of 2019 by which the impugned letter dated 03.09.2019 by which the petitioners have been removed has been sought to be challenged. Learned AAG has drawn our attention towards the judgement of the learned Writ Court as well as the Hon'ble Division Bench of this Court. The learned Writ Court has in paragraph 45 and 47 of its judgement dated 23.07.2014 passed in MJC No.1044 of 2014 arising out of CWJC No.16707 of 2012 and CWJC No.16707 of 2012 held as under:-

“45. In the result, these two writ applications are allowed and the order of the Tribunal without being interfered is modified to



the extent that the appointment of the petitioners Sohan Mahto and Kumari Anju will not be disturbed and, in fact, it is the respondent nos. 14, 15 and 16 who on account of having lower marks, will have to make place for appointment of respondent no. 13 as also for the continuance of the two writ petitioners.

47. The Panchayat Secretary is hereby directed to not only ensure the compliance of the order of the Tribunal by way of appointment of respondent no. 13 on the post of Panchayat Teacher forthwith but also make payment of salary of the respondent nos. 14, 15 and 16 only till today for the earlier work done by them but they shall not continue in service any longer in the light of observations made above in this judgment.”

Further, our attention has been drawn to the judgement of the Division Bench and it has been submitted that in paragraph ‘4’ of the said judgement which has already been extracted hereinabove what has been held is that the appointments of Sohan Mahto and Kumari Anju were only saved. So far these petitioners are concerned, no reliefs were granted to these petitioners in the Letters Patent Appeal.

We have considered the rival submissions at the Bar and find ourselves in agreement with the submissions of the learned AAG. Perusal of the aforesaid orders clearly



demonstrates that so far as these petitioners are concerned at no stage, either in the writ proceedings or in the appellate Court, their appointments were saved and all that said was about their entitlement to get the salary for the period they had worked. Within the scope of the contempt jurisdiction, we are not inclined to entertain the interlocutory application by which now the removal of the petitioners are sought to be challenged. We, however, leave it open for the petitioners to seek their remedy if any available in accordance with law. We further make it clear that if the salary for the period the petitioners have worked in terms of the order of the learned Writ Court have not been paid, it must be paid within one month from the date of receipt/communication of this order.

Contempt application is disposed of.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

Sunil/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.09.2019
Transmission Date	

