

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34165 of 2019

In
Criminal Writ Jurisdiction Case No.2728 of 2017

Arising Out of PS. Case No.-31 Year-2017 Thana- JHAJHA District- Jamui

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Kumkum Kumari, In-charge Head Mistresses, New Primary School, Bandarchuan, P.S.-Jhajha, District-Jamui, At present-Daughter of Shri Kailash Singh, Resident of Village-Nawdiha, P.O and P.S.-Khaira, District-Jamui.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, Government of Bihar.
2. The Principal Secretary, Department of Education, Government of Bihar.
3. The Superintendent of Police, Jamui.
4. The District Education Officer-Cum-District Programme Officer, Jamui.
5. The Block Development Officer, Jhajha, District-Jamui.
6. The Block Education Officer, Jhajha, District-Jamui.
7. The Officer-in-Charge, Police Station-Jhajha, District-Jamui.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr. Sanjay Kumar Mishra, Advocate
For the Opposite Parties : Mr. Rajendra Nath Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 03-09-2020 Heard learned counsel for the petitioner and learned
counsel for the State via video conferencing.

The instant application under Section 482 of the Code of Criminal Procedure has been filed on behalf of the petitioner for restoration of the writ petition filed under Article 226 of the Constitution of India vide Cr.W.J.C. No.2728 of 2017. The said writ petition was dismissed for want of prosecution vide order dated 06.05.2019.



Section 482 of the Code of Criminal Procedure confers upon High Court inherent jurisdiction. Under the said jurisdiction the High Court has the power to pass such order(s) (not inconsistent with any provision of the Code of Criminal Procedure) including the order for costs in appropriate cases as may be necessary to give effect to any order under the Code of Criminal Procedure, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. An application which was filed under Article 226 of the Constitution of India is not an application filed under any of the provisions of the Code of Criminal Procedure. Any order passed in such application is also not an order passed under any of the provisions of the Code of Criminal Procedure. In that view of the matter, I am of the considered opinion that for restoration of a writ petition, which has been dismissed for want of prosecution, the provisions of Section 482 of the Code of Criminal Procedure cannot be invoked. The application is thoroughly misconceived.

It is dismissed accordingly.

Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-



- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Sr. Secretary.
- (ii) The corrected copy of the order shall be transmitted by me from my email id to the Sr. Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let a copy of the order be sent to Mr. Sanjay Kumar Mishra, learned counsel for the petitioner also on his email.
- (v) Let steps be taken by the Sr. Secretary/registry for uploading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J.)

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