

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.23 of 2022

In
Civil Writ Jurisdiction Case No.284 of 2020

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1. The State of Bihar through the Addl. Chief Secretary, Law Department, Government of Bihar, Patna.
 2. The Law Secretary - cum-Legal Remembrancer Law Department, Law Department, Government of Bihar, Patna.
 3. The Joint Secretary Law Department, Government of Bihar, Patna.

... .. Petitioner/s

Versus

1. Jai Prakash Mishra Son of Late Ayodhya Mishra Resident of Mohalla - New Gopalpur (West) Motihari, P.S. - Town, District- East Champaran.
2. Girja Prasad Son of not known A.P.P. and Incharge P.P. East Champaran, Motihari, Resident of Motihari Town, P.S. - Motihari Town, District- East Champaran.
3. The District and Sessions Judge East Champaran, Motihari.
4. The District Magistrate East Champaran, Motihari.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Rastogi, AAG 10 Mr. Parijat Saurav, Advocate Ms. Shilpi Keshari, AC
For the Opposite Party/s :		Sri Alok Kumar Sinha, Sr. Advocate Mr. Rajiv Ranjan, Advocate Dr. Satish Chandra Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL ORDER

5 21-04-2022 Heard learned counsel for respective parties.

Learned counsel for the review applicant vehemently contended that the Joint Secretary has no authority to give undertaking for the reasons that he is only notification or order issuing authority in terms of the delegation given by His Excellency, Governor of Bihar. In other words, it is submitted that appointment of Public Prosecutor and termination it is the



Cabinet decision which is required to be executed by the Secretariate level in the concerned department like Law Department in the present case. Therefore, the Joint Secretary without application of mind given an undertaking on 21.12.2021 while deciding CWJC No. 284 of 2020.

Recently Apex Court was pleased to consider that neither client nor court is bound by Lawyer's admissions as to matters of law or legal conclusions in the case of **The Employees' State Insurance Corporation vs. Union of India** decided on 20.01.2022.

Accordingly, review application stands allowed and the order dated 21.12.2021 passed in CWJC No. 284 of 2020 is recalled. The said writ petition stands restored on the file and relist CWJC No. 284 of 2020 on 25.04.2022.

For having mislead this Court by the Joint Secretary, Law Department, Govt. of Bihar, Patna in giving an undertaking as narrated in the order dated 21.12.2021 is liable to pay cost and it is quantified @ Rs. 5,000/- (Five Thousand). Cost shall be remitted from the pocket and not from the Department in the Patna High Court Legal Services Committee within a period of two weeks from today. For the reasons that Respondent was compelled to file contempt petition and the present review



petition is filed after filing of contempt petition.

(P. B. Bajanthri, J)

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