

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.237 of 2022

In

CIVIL REVIEW No.23 of 2022

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The Joint Secretary, Law Department, Govt. of Bihar, Patna.

... .. Appellant/s

Versus

1. Jai Prakash Mishra, Son of Late Ayodhya Mishra, Resident of Mohalla-New Golapur (West), Motihari, P.S.-Town, District-East Champaran.
2. The State of Bihar through the Additional Chief Secretary, Law Department, Govt. of Bihar, Patna.
3. The Law Secretary-cum-Legal Remembrancer, Law Department, Law Department, Govt. of Bihar, Patna.
4. 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-Champaran.
5. The District and Sessions Judge, East Champaran, Motihari.
6. The District Magistrate, East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sarvesh Kumar Singh, A.A.G.-13
Ms. Smriti Singh, A.C. to A.A.G.-13
Mr. Rajat Kumar Tiwary, A.C. to A.A.G.13

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)



Date : 06-12-2022

Heard Mr. Sarvesh Kumar Singh, the learned Addl. Advocate General No. 13 for the appellant.

2. The State has preferred the appeal through the Joint Secretary, Law, against the order dated 21.04.2022 passed by the learned Single Judge of this Court in Civil Review No. 23 of 2022 arising out of C.W.J.C. No. 284 of 2020, imposing a personal cost of Rs. 5,000/- even when the review application was allowed and the order dated 21.12.2021 passed in the aforesaid C.W.J.C. No. 284 of 2020 was recalled. The writ petition stood restored to its original file and was directed to be re-listed.

3. Perhaps, the present attempt is to take an observation from this Court that the imposition of cost on the Joint Secretary, Law, to be realized from his pocket, be not treated as stigmatic in future.

4. Even though no appeal lies against imposition of cost on a person about whom the learned



Single Judge gets an impression that he had misled the Court even for a while, but certain facts need to be noted before disposing of this appeal.

5. One Jai Prakash Mishra, a serving Public Prosecutor of Motihari District had challenged his termination *vide* C.W.J.C. No. 284 of 2020.

6. During the hearing of the aforesaid writ petition, the Joint Secretary, Law was present in Court who appears to have intimated the learned Additional Advocate General 10 representing the State that the order of termination which was under challenge in the aforenoted writ petition was likely to be withdrawn within a week.

7. On such submission of the State Counsel, the writ petition was disposed off as nothing survived for adjudication.

8. The withdrawal order but never came forth-coming, which led to initiation of a contempt proceeding against the Joint Secretary, Law.



9. However, accepting the explanation by the Joint Secretary, Law, the learned Single Judge in M.J.C. No. 28 of 2022 held that *prima facie*, the proposed contemnor has not committed any willful disobedience of the order dated 21.12.2021 passed in C.W.J.C. No. 284 of 2020.

10. Holding that there was no willful disobedience, the contempt proceedings were dropped.

11. However, in the Civil Review No. 23 of 2022, the learned Single Judge, though accepted the submission of the Joint Secretary, Law that the order of termination or its withdrawal was not in his hands but was the decision of the Cabinet, did not proceed against the petitioner, but saddled him with a cost of Rs. 5000/- to be realized from his pocket and not from the Department and such amount to be deposited with the Patna High Court Legal Services Committee within a time-frame.

12. Mr. Sarvesh Kumar Singh, the learned



A.A.G. 13 submits that the amount has already been paid and the appellant does not have any intentions to have the amount indemnified by the State, but only submits that such imposition of cost from his pocket be not ever read against him in his service records.

13. Since the writ petition was restored, the contempt petition was dropped and the explanation of the petitioner was accepted before saddling him with the cost, the intention of the learned Single Judge was not to castigate the appellant or stigmatize him. Only for the purposes of preserving the majesty of the Court proceeding, for the Court having been misled in disposing off the writ petition on the statement that the offending order of termination shall be withdrawn, which was not done, such cost had been imposed.

14. Since the fine has already been paid and there is no request on the part of the Joint Secretary, Law to have it defrayed on the State and the contempt proceedings having been dropped, there is no difficulty



for this Court to infer that such imposition of cost is not
stigmatic.

15. With the aforenoted observation, the
appeal stands disposed off.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

Praveen-
II/Anuradha

AFR/NAFR	NAFR
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