

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1864 of 2018

In
Civil Writ Jurisdiction Case No.4369 of 2013

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Upendra Sharma Son of Late Tapeswar Sharma, resident of Village-
Singhari, P.O.- Singhari, P.S.- Goh, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sri R.K. Mahajan Son of not known, The Commissioner cum Secretary,
Health Department, Government of Bihar, Patna.
3. Sri Harihar Nath Diwakar, Son of not known, The Director-in-Chief, Health
Department, Government of Bihar, Patna.
4. Sri Binay Kumar Yadav, Son of Not Known, the Regional Deputy Director,
Health Services, Magadh Division, Gaya.
5. Sri Nath Prasad, Son of Not Known, the Civil Surgeon cum Medical Officer,
Nawada.
6. Sri Rama Nand Prasad Singh, Son of Not Known, the Additional Chief
Medical Officer, Aurangabad, Nawada.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Shree Kant Pandey
For the Opposite Party/s :	Mr. S.D. Yadav, AAG IX
	Mr. Prem Ranjan Kr. AC to AAG IX
	Mr. Braj Bhushan Mishra, AC to AAG IX

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 07-07-2022

Heard learned counsel for the parties.

The present contempt petition has been filed for
initiation of contempt proceeding against the Opposite Parties,
for wilful and deliberate violation of order dated 29.01.2018,
passed by this Court in C.W.J.C No. 4369 of 2013.

Writ petition was filed for setting aside the order dated
27.01.2012 passed in Case No. 22 of 2011 by Chairman, One

Man Enquiry Committee, Patna, in which appointment of the petitioner has been found to be illegal and termination of petitioner has been upheld.

By order dated 26.06.2006 passed in LPA No. 946 of 2006, all appointments made were referred to Committee constituted by the Government which categorized appointments as irregular, illegal and forged. Petitioner was categorized as illegal appointee and terminated.

Petitioner preferred C.W.J.C No. 8492 of 2009, and order of termination was set aside by order dated 06.10.2009. State of Bihar filed LPA No. 596 of 2010 and the same was disposed of on 26.03.2010, pursuant to which, petitioner filed Case No. 22 of 2011 which was dismissed by order dated 27.01.2012 by One Man Enquiry Committee, which was impugned in present writ petition, which was allowed by order dated 29.01.2018 against which State preferred LPA No. 1274 of 2018, which was disposed of on 27.08.2019 with following observation:-

“Re: L.P.A. No.1274 of 2018

The matter had been adjourned on account of Special Leave Petition pending before the Apex Court. However, no order of the Apex Court has been produced by the appellant State of Bihar nor any indication of any other order has been

given.

In this circumstance, it will be open to the appellants to extend the relief to the respondent, subject to the outcome of the Special Leave Petition before the Apex Court.

The appeal is disposed of.”

In compliance of order dated 29.01.2018 passed in C.W.J.C No. 4369 of 2013, petitioner-Upendra Sharma was reinstated in service pursuant to letter dated 03.10.2019 issued by Director-in-chief, Health Department, from the date of issuance of letter, however, same was subject to order passed by the Apex Court.

Thereafter, by order dated 07.11.2019 passed by the Civil Surgeon cum Chief Medical Officer, Nawada, the services of petitioner was dismissed pursuant to letter dated 31.10.2019 issued by Director-in-Chief, Health Service, Patna in view of judgment and order dated 17.10.2019 passed by the Apex Court in SLP No.28306 of 2014 (Civil Appeal No.7879/2019).

It is submitted by Learned counsel for the petitioner that no SLP was filed against the order dated 29.01.2018 passed in C.W.J.C No.4369 of 2013 and order dated 27.08.2019 passed in LPA No. 1274 of 2018 and the SLP No. 28306 of 2014 (Civil Appeal No.7879/2019) referred in the order of termination

dated 07.11.2019 is not concerned with the petitioner, however, such contentions cannot be examined in contempt jurisdiction and petitioner is at liberty to challenge the order dated 07.11.2019 passed by Civil Surgeon cum Chief Medical Officer, Nawada, by which his services were terminated in an appropriate proceeding.

The contempt petition is, accordingly, disposed of.

(S. Kumar, J)

Sanjay/Ranjan-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA