

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1002 of 2023

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Maharudra Jha Son of Late Munindra Jha Resident of Village- Parsauni,
Police Station- Bisfi, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Deputy Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Higher Education, Education Department, Government of Bihar, Patna.
5. The Chairman cum Director, Maithili Academy, 740/800, Lal Bahadur Shastri Nagar, Patna 800023.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Dhirendra Kumar Jha, Advocate
For the Respondents	:	Mr. Vivek Anand Amritesh, AC to SC-28
For the respondent no.5	:	Mr.Jai Narain Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 25-04-2023

Heard learned counsel for the petitioner, learned counsel for the State and Mr. Jai Narain Thakur, learned counsel for the Maithili Academy.

2. Petitioner, in the present case, has prayed for setting aside of the order dated 06.08.2010 issued under the signature of the Deputy Director (Higher Education) which is Annexure '13' to the writ application whereby and whereunder it was held that the promotion of the petitioner to the post of Assistant had not been approved by the government, his promotion on the said post was illegal and excess amount paid to the petitioner giving benefit of the promotion be recovered in 20 equal installments.



3. The background facts of the case may be found in the order dated 07.07.2010 passed by this Court in CWJC No. 10142/2010 (Maharudra Jha Vs. The State of Bihar and Others). In the said case, earlier the order of recovery was challenged by the petitioner. On the date of consideration of the writ application, this Court was informed that in case of Raghubir Mochi who had filed C.W.J.C. No. 8994/2010, this Court had quashed the order of recovery whereupon this Court passed the following order:

“3. Having heard counsel for the parties, I am satisfied that the case of the petitioner is covered by the orders of this Court dated 28.06.2010 passed in the case of Raghubir Mochi bearing C.W.J.C. No. 8994 of 2010 and this writ petition is also disposed of exactly in the same terms with further direction that the recovery order passed in the case of the petitioner dated 06.05.2010, Annexure-13 and 28.05.2010, Annexure-14 are also quashed but it is made clear that in the event promotion granted to the petitioner is not upheld by the Director, Higher Education then the recovery in terms of order dated 06.05.2010 and 28.05.2010, Annexures-13 and 14 shall again be resumed.”

4. Pursuant to the aforesaid order of this Court, fresh order as contained in Annexure ‘13’ was passed. Admittedly, Annexure ‘13’ was not challenged for about 12½ years and the petitioner allowed the entire recovery to be made.

5. At this stage, learned counsel submits that petitioner has filed this writ application after 12½ years when it was found



that an order dated 06.08.2010 passed by the respondents in respect of Raghubir Mochi holding that he was not eligible to hold the post of Assistant Director and further order for recovery of excess payment has been interfered with by this Court vide judgment dated 01.08.2022 passed in CWJC No. 543/2011.

6. Learned counsel for the State and learned counsel for the Maithili Academy both have opposed this writ application. It is submitted that Raghubir Mochi had challenged the order dated 06.08.2010 immediately thereafter by filing CWJC No. 543/2011, therefore his writ application did not suffer from the vice of delay and laches. It is further submitted that in the same meeting in which the petitioner was promoted to the post of Assistant, Raghubir Mochi, who was earlier working as Assistant, was promoted to the post of Assistant Director. He continued as Assistant Director from 04.05.2000. He was also given charge of the post of Director from 31.05.2007 to 27.05.2009. He was however demoted from the post of Assistant Director from retrospective date on the ground that he did not fulfill requisite educational qualification.

7. It is submitted that in the said context his writ application was considered by the learned coordinate Bench of this Court and the court set-aside the impugned orders after noticing



that said Raghubir Mochi had attained superannuation during the pendency of the writ application.

8. Learned counsel for the Academy has informed that this order has been appealed against and is pending consideration in LPA No. 582 of 2022.

9. Having heard learned counsel for the petitioner and State as also the Academy, this Court is of the considered opinion that the present writ application is liable to be dismissed on the ground of unexplained delay and laches on the part of the petitioner. He has moved this Court after 12½ years against the impugned order. His case is not similarly situated with Raghubir Mochi inasmuch as said Raghubir Mochi had challenged the impugned order immediately in the year 2011, and, in his case, as it appears from the judgment of this Court that he was reverted on the ground that he was not holding requisite qualification for the post of Assistant Director. The petitioner, in this case, is also bound by the order dated 07.07.2010 passed in CWJC No. 10142/2010 wherein this Court made it clear that in the event promotion granted to the petitioner is not upheld by the Director, Higher Education, then the recovery in terms of the order dated 06.05.2010 and 28.05.2010 shall be resumed. The petitioner did not challenge the order dated 07.07.2010 passed in CWJC No.



10142/2010 and then the subsequent order of the Director, Higher Education as contained in memo no. 2434 dated 06.08.2010 for over a decade.

10. This Writ Application is, thus, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	25.04.2023
Transmission Date	

