

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.281 of 2023

In
Miscellaneous Jurisdiction Case No.1305 of 2022

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Lalit Narayan Rajak Son of Late Shesh Nath Rajak, Resident of House No. 1225, Kali Mandir Lane, Near Budha Dental College, M.G. Nagar, B.H. Colony, Patna. Retired While Working as the District-Education Officer, East Champaran, Motihari.

... .. Appellant/ Opp. Party.

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director, Primary Education, Govt. of Bihar, New Secretariat, Patna.
4. The District Education Officer, East Champaran at Motihari, Dist. East Champaran at Motihari.
5. The District Programme Officer (Establishment), East Champaran at Motihari, District- East Champaran at Motihari
6. The Block Education Officer, Keshariya, District- East Champaran at Motihari.
7. The Headmaster, Up-Graded Middle School, Semuapur, Block- Keshariya, District- East Champaran at Motihari
8. Kumari Poonam Wife of Sri Amit Kumar Pandey, Resident of Village and P.O. and P.S.- Dumariya Ghat, District-East Champaran at Motihari, Presently Posted as Panchayat Teacher in Up-graded Middle School Semwapur, Block- Keshariya, District-East Champaran at Motihari

... .. Respondents

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Appearance :

For the Appellant : Mr. Umesh Kumar Mishra, Adv.



For the State : Mr.Smt. Shilpa Singh, GA-12

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 24-04-2023

Heard learned counsel for the appellant and learned counsel for the State.

2. The appeal is directed against the order dated 31-01-2023 passed in a *suo motu* contempt proceedings in M.J.C. No. 1305 of 2022, whereby and whereunder the learned Single Judge has held the appellant- contemnor guilty of contempt and liable to punishment in terms of Section 12(3) of the Contempt of Courts Act, 1971.

3. The case has a chequered history, including filing of at least four writ petitions, the last of which, i.e., C.W.J.C. No. 977 of 2018 is relevant, wherein, a direction was issued on 02-05-2018 for implementation of the order of the District Teachers Employment Appellate Authority dated 06-11-2017 with all consequential benefits to the petitioner. For compliance of the same M.J.C. No. 2980 of 2018 was filed, in which the respondents released the petitioner's salary up to July, 2019. The Contempt proceedings were, thus, closed leaving it open for the petitioner to approach the appropriate forum if grievances



remained.

4. The brief background is that after some litigation between the parties an issue regarding petitioner's educational testimonials, based on which, she had participated in the process of selection, being forged was raised. Relying upon verification of the petitioner's educational certificate conducted by the authorities and report of the Bihar School Examination Board communicated under letter dated 16/08/2017, the Authority concluded that the petitioner's educational testimonial was not forged and the same was genuine. In spite of such finding by the District Teachers Employment Appellate Authority in Appeal Case No. 992 of 2016, the writ petitioner was deprived of appointment and consequential benefits, which led to filing of C.W.J.C No. 977 of 2018 by the writ petitioner.

5. The writ petition was disposed of with a clear direction to implement the decision of the District Teachers Employment Appellate Authority in Appeal Case No. 992 of 2016 in its letter and spirit and grant all consequential benefits to the petitioner, that also within a maximum period of 60 days from the date of receipt/production of a copy of the order of the writ Court. The order in the writ petition was passed on 02-05-2018 whereafter a review application was filed by one Banarasi Kumar Sahni, who



was not a party to the writ proceedings. The same was disposed of reiterating the same direction by observing that there was no ambiguity in the direction passed in C.W.J.C. No. 977 of 2018. The petitioner, however, remained deprived of the fruits of the order passed by the District Teachers Employment Appellate Authority as well as the writ Court, which prompted her to file a contempt application which was registered as MJC No. 2980 of 2018.

6. During the proceedings arising out of MJC No. 2980 of 2018, the petitioner's salary was released up to July 2019. In view thereof, the contempt proceedings were dropped. However, leaving open the petitioner's option to approach the appropriate forum if grievances remained. The writ petitioner's right to appointment based on her educational certificates, which were found to be genuine finally were realized in the contempt proceedings arising out of MJC No. 2980 of 2018.

7. The District Education Officer, Motihari, East Champaran, who was Respondent No.4 to the writ proceedings, immediately after disposal of the contempt proceedings arising out of MJC No. 2980 of 2018, on 16/10/2019, shot off a letter dated 11/11/2019 to the Block Education Officer, Kesariya, East Champaran, stating that it was improper to take work from the



writ petitioner and if she was permitted to work then action would be taken against the Block Education Officer and the in-charge Headmaster of the school concerned. The letter of the District Education, Officer, Motihari, East Champaran, is, therefore, an affront to the order passed in CWJC No. 977 of 2018, Civil Review No. 145 of 2018 and MJC No. 2980 of 2018, inasmuch as the same has been issued directing the deprivation of petitioner's right to continue in service and consequential benefits which right was arising out of the above noted three orders passed by the writ Court, review Court as well as the Contempt Court. As a consequence of letter dated 11/11/2019 a letter dated 16/11/2019 was issued by the Block Education Officer, Kesariya, to the In-charge Headmaster of the writ petitioner's school directing not to take work from writ petitioner and not to allow her to mark attendance. The communication dated 11/11/2019 issued by the District Education Officer, East Champaran, Motihari as well as the consequential letter dated 16/11/2019 both were challenged again by the writ petitioner in CWJC No. 248 of 2020. On 18/07/2022, when the matter was taken up this Court passed the following order:-

“4. Thus, it is a case where he mislead the Court in dropping the contempt proceeding



initiated vide M.J.C. No. 2980 of 2018 for non-compliance of the order passed by this Court for implementation of the District Appellate Authority's order in C.W.J.C. No. 977 of 2018. He has treated the initiation of contempt proceeding as a pressure tactics adopted by the petitioner and proceeded to punish her.

5. The impertinent behaviour of the then District Education Officer in passing an order in the teeth of the contempt proceedings having been dropped against him on assurance of compliance of the Court's order, prima facie to committing contempt on the face of the Court.

6. Registry is directed to register an M.J.C. against the concerned person, namely, Sri Lalit Narain Rajak, who is present in Court and directed to file a reply as to why he should not be punished within the provision of Section 12 of the Contempt of Courts Act, 1971, for having committing deliberate and willful contempt of Court.

7. List this case along with M.J.C. on 27 of July, 2022.

8. The present District Education Officer as well as the then posted District Education Officer, Sri Lalit Narain Rajak, are directed to remain present in Court on the next date.”

8. In the suo motu contempt proceedings, the instant



appellant- contemnor, filed a reply. This Court, upon due consideration of the facts, found that the contempt proceedings were disposed of since the court was informed that the writ petitioner's salary had been paid. The petitioner's appointment and consequential benefits as a result of declaration regarding legitimacy of the payment, being the fruits of the order passed in CWJC No. 977 of 2018 and Civil Review No. 145 of 2018 were, thus, paid to the petitioner. Having done so, the appellant-contemnor issued the communication dated 11/11/2019. The issuance of this letter was, thus, clearly contemptuous and affront to the order passed in CWJC No 977 of 2018 and Civil Review No. 145 of 2018. The reply filed by the instant appellant- contemnor, however did not reflect any remorse. He had admitted in para -9 of his show cause that he had made submission before this court in MJC No. 2980 of 2018 with regard to compliance of the order and that payment of the writ petitioner's salary had been ensured till July 2019. However, in the same breath, he has tried to justify his directions issued under letter dated 11/11/2019 to the Block Education Officer, Kesariya and In-charge Headmaster not to allow the petitioner to work. The Court, found the appellant- contemnor to be guilty of contempt and adjourned the matter for hearing on the



question of punishment.

9. It is only after the instant appellant- contemnor was threatened with punishment on finding of having committed contempt that he filed another show cause tendering an unconditional apology. The learned single Judge, therefore, observed that the appellant- contemnor had shown impertinence and contumacious attitude in not complying with the court's order. He had interpreted the Court's order in his own manner to allow another person, who was wrongly appointed in place of the writ petitioner to continue. The conduct was found to be not pardonable. The Court found the apology merely to be a lip service and was not impressed by the petitioner's ingenuine and superficial expression of apology.

10. The appellant's-comtemnor's plea that he had already retired, however, was accepted by the learned Single Judge to be an extenuating circumstance. Therefore, in the interest of purity of administration of justice, a punishment of just two days of civil imprisonment was awarded along with a sum of Rupees 50,000/- (Fifty Thousand)) which was to be paid to the petitioner. After pronouncing the judgment, considering the petitioner's right of appeal under section 19 of the Contempt of Courts Act, the sentence was suspended allowing the appellant-



contemnor to file an appeal, subject to submitting surety of the sum of Rupees 20,000/- (Twenty Thousand) to the satisfaction of the Registrar General, Patna High Court.

11. It is this order, which is before us, for consideration today. Learned counsel for the appellant- contemnor submits that the punishment is too harsh insofar as the civil imprisonment is concerned. It is submitted that the appellant-contemnor is a retired government servant having an unblemished career which may be considered by this Court along with his expression of apology in the second show cause filed before the learned single Judge for absolving the petitioner from the consequences of the orders passed by the learned single Judge.

12. Having regard to the above noted facts, the tenor of the petitioner's first show cause and the second show cause filed before the learned single Judge, this Court is not inclined to interfere with the findings of learned Single Judge regarding the petitioner being guilty of contempt of Court. The said finding is hereby confirmed.

13. Having regard to the petitioner's age and unblemished service record, this Court, however, would deem it just and appropriate so as to maintain purity in the



administration of justice, to convert the punishment of two days civil imprisonment into a punishment of fine of a sum of Rupees 25,000/- (Twenty Five Thousand)) over and above, the fine of Rupees 50,000/ (Fifty Thousand) imposed by the learned Single Judge. The learned counsel for the appellant- contemnor has stated, upon instructions, that he would be complying with these penal consequences in lieu of civil imprisonment that also within four (04) weeks from the date of passing of this order, whereafter this Court directs that the surety and bail bonds shall stand discharged. If the appellant fails to pay the amounts directed herein above then he shall be liable to recovery of Rs. 50,000/- and two days civil imprisonment. If paid the amount shall be paid over to the 8th respondent; the teacher subjected to undue harassment.

14. With the above modification in the penal consequences, the Letters Patent Appeal is dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shyambihari/-

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