

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11677 of 2021

Hazra Khatoon wife of late Abdul Alim Khan resident of Village and P.O.
Bantra Said, P.S. Deokund, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Executive Engineer, Minor Irrigation, Aurangabad Division, Aurangabad.
3. The Treasury Officer, Aurangabad.
4. The Branch Manager, Punjab National Bank, Deokund Branch, Aurangabad.
5. The Branch Manager, Central Pension Processing Centre, Punjab National Bank, Maharaja Kameshwar Complex 2nd Floor, Opposite Budha Park, Freasure Road, Patna.
6. The Accountant General (A and E) Bihar, Patna.
7. The Senior Accounts Officer, Office of the Accountant General (A and E) Bihar, Patna.
8. Hamisha Khatoon, Village and P.O.- Bantra Said, P.S. Deokund, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Hriday Prasad, Advocate Mrs. Maruti Kumari, Advocate
For the Respondent/s	:	Mr. Sita Ram Yadav, GP-16 Mr. Yatindra Narayan, AC to GP-16 Mr. Jitendra Kumar, AC to GP-16
For the A.G.	:	Mr. S.M. Ehtesham, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 26-06-2023 Heard Mr. Ram Hriday Prasad, learned counsel
appearing on behalf of the petitioner; Mr. Sita Ram Yadav,
learned G.P-16 appearing on behalf of the State and Mr. S.M.
Ehtesham, learned counsel appearing on behalf of the
Accountant General.

2. The petitioner and Respondent No.8 have claimed



themselves to be the legally wedded wife of deceased employee namely, late Md. Abdul Alim Khan. Late Md. Abdul Alim Khan had filed a writ petition for incorporating the name of his second wife i.e. Respondent No.8 by filing C.W.J.C. 14302 of 2017. This Court, considering the counter affidavit filed on behalf of the Respondent No.3, had dismissed the writ petition as having become infructuous. The order dated 22.05.2020 passed in C.W.J.C 14302/2017, *inter alia*, as follows:

“Heard the learned counsel for the petitioner, the learned counsel for the State, and the learned counsel for the Accountant General, Bihar.

The petitioner filed this writ petition for a direction to the respondents to incorporate the name of second wife of the petitioner in his P.P.O. bearing P.P.O. No. 414331 dated 18.10.2004.

Counter affidavit is filed on behalf of the respondent No. 3. The Executive Engineer wrote letter to the Senior Accounts Officer, Accountant General Office to insert the name of second wife of the petitioner in the pension papers of the petitioner. Consequently, the Senior Accounts Officer wrote letter to the Treasury Officer, Aurangabad to insert the name of second wife of the petitioner in the P.P.O. of petitioner.

In this view of the fact, the writ petition has become infructuous.

Accordingly, this writ petition is dismissed as has become infructuous.”

3. Learned counsel appearing on behalf of the petitioner submitted that petitioner was impleaded as Respondent No.5 in the above writ petition, however, no notice was issued to her to place her case and as such the above order



is not applicable so far as the petitioner is concerned in spite of the fact that the counter affidavit was served to him on 06.02.2023.

4. In view of order dated 22.05.2020, he seeks to withdraw the present writ petition with a liberty to avail appropriate remedy in accordance with law including filing of the representation.

5. The respective parties are directed to avail appropriate remedy in accordance with law as this Court has not gone into the merits of the case.

6. At this stage learned counsel appearing on behalf of the petitioner seeks to file a detailed representation before the Respondent No.2- The Executive Engineer, Minor Irrigation, Aurangabad Division, Aurangabad.

7. Learned counsel appearing on behalf of the Respondent No.8 submitted that the dispute as involved in the present writ petition cannot be adjudicated without hearing Respondent No.8.

8. The authority concerned before adjudicating into the matter shall give notice to the Respondent No.8, who has claimed to be the second wife and in support has also brought by way of Annexure-1 series to show that already information



was given by the deceased employee to get marry with Respondent No.8.

9. If such representation is filed, the concerned authority must pass a reasoned order without being influenced by any previous order passed with regard to factum of legality of the marriage of the parties.

10. The representation must be adjudicated considering the law laid down by this Court as well as by the Apex Court and also taking into consideration the several Government circular with respect to applicability of the same which is governed by Muslim law within a period of six weeks.

11. With above observation and direction, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-
Nilmani/-

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