

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.753 of 2023**

**In**  
**Civil Writ Jurisdiction Case No.15501 of 2011**

- 
- 
1. Bihar State Labour Enforcement Officers Association, Bihar, Patna, through its President, Sanjiv Kumar Chaudhary, Male, aged about 47 years, Son of Sri Trilok Nath Chaudhary, resident of Ward No. 13, Narayanpur, Raghapur, Supaul- 852111.
  2. Shankar Dayal Upadhyay, Son of Late Keshwa Nand Upadhyay Former Vice President, Bihar State Labour Enforcement Officers Association, Bihar, Patna, resident of 103, Keshwa Malti Enclave, Police Colony, Ashiana Digha Road, P.S. Rajiv Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. Sri Arvind Kumar Chaudhary, Principal Secretary, Labour Resources Department, Government of Bihar, Niyogan Bhavan, Patna.
3. Sri S. Siddharth, Principal Secretary, Finance Department, Government of Bihar, Patna.
4. Sushri Ranjeeta, Commissioner, Labour Resources Department, Government of Bihar, Patna.
5. Dr. Birendra Kumar, Joint Labour Commissioner, Labour Resources Department, Government of Bihar, Patna.

... .. Opposite Party/s

---

---

**Appearance :**

For the Petitioner/s : Mr. Arun Kumar Sinha, Advocate  
For the Opposite Party/s : Mr. Sarvesh Kumar Singh, AAG-13

---

---

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**

**ORAL JUDGMENT**

**Date : 11-04-2023**

Heard learned counsel for the petitioners and learned Advocate General assisted by Mr. Sarvesh Kumar Singh learned AAG-13.

Learned counsel for the petitioners submits that the present contempt application has been filed alleging violation of the order dated 24.10.2016 passed in C.W.J.C. No. 15501 of 2011. Learned counsel further submits that the petitioners had moved before this



Court by filing the aforesaid writ application seeking proper fixation of their second A.C.P. scheme in the pay-scale of Rs.10,000/- to Rs.15,200/-. Learned counsel next submits that the second A.C.P. was fixed in the pay-scale of Rs.7,500/- to 12,000/- and the same was under challenge. It is also submitted that the learned State Counsel based on the supplementary counter affidavit filed in the writ application had made a categorical submission based on para nos. 8 and 9 of the supplementary counter affidavit that the grievance of the petitioners stands redressed.

Learned counsel for the petitioners does not dispute this fact that in view of the statement made in the supplementary counter affidavit based on which the learned counsel for the State made the submission, that grievance of the petitioner stands redressed was implemented and the petitioners started getting the second A.C.P. in the pay-scale of Rs.10,000/- to Rs.15,200/-.

Learned counsel for the petitioners is aggrieved by the fact that subsequent to passing of the order dated 24.10.2016, the Labour Resources Department, Government of Bihar, Patna came out with an office order contained in Letter No. 4504, dated 18.11.2022 whereby the second A.C.P. granted to the petitioners' association in the pay-scale of Rs.10,000/- to Rs.15,000/- was reduced and direction for recovery has been issued. Learned counsel further submits that once the department by filing supplementary counter



affidavit in the writ application had stated on oath that the grievance of the petitioners stand redressed, as such, the subsequent decision taken on 18.11.2022 clearly attracts contempt of the order dated 24.10.2016 in C.W.J.C. No. 15501 of 2011, as the authorities now cannot resile from their undertaking which was recorded in the order as aforesaid based on which the writ application was disposed of. Learned counsel for the petitioners next submits that before taking the decision as recorded in letter no. 4504 dated 18.11.2022 an opinion of the learned Advocate General was sought in pursuance whereof the learned Advocate General gave an opinion that before taking any decision a review is to be filed, accordingly, Civil Review No. 05 of 2023 has been filed which is pending adjudication.

Learned Advocate General rebuts the submission made by the learned counsel for the petitioners and submits that from bare perusal of the order dated 24.10.2016 in C.W.J.C. No. 15501 of 2011, it would manifest that no direction or mandamus was issued rather the Court only recorded the statement made by the learned State Counsel based on the averments made in the supplementary counter affidavit and disposed of the writ application as the grievance of the petitioners stood redressed. It is next submitted that after the order dated 24.10.2016 in C.W.J.C. No. 15501 of 2011 was passed the undertaking given by the learned counsel for the State based on the averments made in the supplementary counter affidavit was also



implemented. It is, thus, submitted that it is not a case of the petitioners that based on the averments made in the supplementary counter affidavit, the writ application was disposed of and even the benefits did not come to the petitioners or a false averment was made in the supplementary counter affidavit. It is further submitted that subsequently when the State Government realize that fixation of second A.C.P. in favour of the petitioners’ association was not in accordance with law, accordingly, the aforesaid decision was taken.

Learned Advocate General very clearly and fairly submits that the opinion so given by the office of the learned Advocate General for filing review, in this regard, was not mandated. It is further submitted that in the event if the petitioners are aggrieved by the subsequent order dated 18.11.2022, they have remedy available in law.

Considering the submission made by the learned Advocate General, the Court does not feel persuade to proceed with the contempt petition.

Accordingly, the contempt application is dismissed.

**(Satyavrat Verma, J)**

Kundan/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 13.04.2023 |
| Transmission Date |            |

