

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3800 of 2019

In
Miscellaneous Jurisdiction Case No.470 of 2015

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Gaur Chandra Sinha, Son of Late Awinash Chandra Sinha, resident of village
Shahkund, P.O. Shahkund, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Divisional Commissioner, Bhagalpur.
2. The Divisional Commissioner, Bhagalpur namely Smt. Vandana Kini,
husbands name not known to the petitioner.
3. The Collector-cum-District Magistrate Bhagalpur namely Sri Pranav Kumar,
Son of Sri Maheshwar Prasad, resident of Village East Laxmi Nagar near
Shaligram Market, P.S.- Sampatchak, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Arup Kumar Chongdar, Advocate
For the Opposite Party/s :	Mr. Prabhat Kumar Verma (Aag 3)
For Respondent/ State :	Mr. Suman Kumar Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 27-04-2023 Heard learned counsel for the petitioner and learned

AAG-3 Mr. Prabhat Kumar Verma for the State assisted by Mr.

Suman Kumar Jha.

The Court feels a little disturbed after hearing the

learned counsel for the petitioner.

The learned counsel for the petitioner submits that he

has been contesting this case since 1996 and even after 27 years,

he is still before Court seeking justice by filing the instant

contempt application. The learned counsel next submits that the

present contempt application alleges violation of the order dated



19.07.2019 in MJC No. 470 of 2015. It is next submitted that MJC No. 470 of 2015 was filed alleging violation of the order passed in CWJC No. 9642 of 1997. The learned counsel next submits that petitioner had filed CWJC No. 9642 of 1997 challenging a fresh panel for appointment on Class-IV post by the respondents in 1996 from which his name was excluded on the ground that he was having higher qualification than matriculation. The learned counsel next submits that CWJC No. 9642 of 1997 was disposed of by order dated 28.02.2014 (Annexure 2/1 to the contempt application). The learned counsel submits that the CWJC No. 9642 of 1997 was disposed of with a direction to the concerned respondent to consider his name for empanelment for appointment against Class IV vacancies available in the Offices of the concerned District.

Further the order also recorded that the respondent also agrees that petitioner can now claim for empanelling him for appointment on Class-IV post only in light of the current resolution of the Government. Learned counsel next submits that the learned Writ Court also directed the petitioner to submit a formal application with supporting documents of his experience and qualification to the District Magistrate, Bhagalpur within four weeks from the date of the order i.e.,



28.02.2014 and in the event, if the same was done, the District Magistrate, Bhagalpur was directed to see to it that the application of the petitioner is considered on merits for empanelment in the next panel for appointment against Class-IV post of the District. Learned counsel submits that when the order dated 28.02.2014 in CWJC No. 9642 of 1997 was not complied, as such, the petitioner filed MJC No. 470 of 2015 alleging violation of the order dated 28.02.2014 in CWJC No. 9642 of 1997. The learned counsel submits that MJC No. 470 of 2015 was disposed of by order dated 19.07.2019 wherein this Court recorded that the order of the Writ Court has been complied with, though belatedly.

The learned counsel next submits that the District Magistrate, Bhagalpur, assurance was also recorded in the order dated 19.07.2019 in MJC No. 470 of 2015 as the District Magistrate had assured the Court that once the panel has been prepared the actual process of appointment based on such panel shall not be further delayed and in any case, shall be taken to its logical conclusion within one month, as he has already sent the panel to various departments for proceeding ahead with the appointment. The learned counsel thus submits that since the assurance given by the District Magistrate, Bhagalpur was also



recorded in MJC No. 470 of 2015, as such, it was presumed that now the appointment of the petitioner shall be made within a stipulated period as assured by the District Magistrate to this Court. It is next submitted that when the said assurance was also not acted upon the petitioner had no option but to file the instant contempt application alleging violation of the order dated 19.07.2019 in MJC No. 470 of 2015.

The learned counsel submits that since an assurance was given by the District Magistrate, Bhagalpur that appointments based on such panel shall not be further delayed and in any case shall be taken to its logical conclusion within one month, as he has already sent the panel to various departments for proceeding ahead with the appointment then the appointment ought to have been made within the period aforesaid. The learned counsel next submits that from perusal of Annexure P/9 Series to the reply to the show cause filed by Opposite Party No. 3 it would manifest that the same contains the minutes of the District Selection Committee Meeting dated 23.01.2019 and from perusal of the same it is clear that 430 vacancies were available prior to that date which also included 92 vacancies in the Collectorate for which roster already was clear. Learned counsel thus submits that when the District



Magistrate, Bhagalpur was aware that 430 vacancies were already available for which roster was also cleared and the vacancies also included, the vacancies in the Collectorate then what prevented the District Magistrate, Bhagalpur from proceeding ahead with the appointment.

The learned counsel next submits that had the District Magistrate in time in compliance of the order of the Writ Court would have applied himself then perhaps the petitioner would not have landed in trouble in which he has landed presently, it is next submitted that the lackadaisical approach of the District Magistrate, Bhagalpur has led the petitioner to approach this Court twice in its contempt jurisdiction. The learned counsel thus submits that if the authorities are ready and willing to comply the orders of this Court in time perhaps such contempt petitions may not be filed or if the authorities feel that the order of the learned Writ Court cannot be complied for any reason then they have remedy of appeal/ review/modification of the order but in absence of the same the authorities cannot sit over the orders of this Court.

Learned AAG-3 submits that the violation of the order of the Writ Court is neither intentional nor willful. It is next submitted that no doubt an assurance was given by the Collector



to this Court in MJC No. 470 of 2015 and the Collector, Bhagalpur in pursuance of the assurance given had requested the various departments within his District to send the vacancy position in their Offices after obtaining roster clearance by his Letter dated 18.07.2019, 5.08.2019, 14.08.2019, 16.08.2019, 03.09.2019, 16.09.2019, 26.09.2019, 31.10.2019, 11.12.2019 and 31.1.2020, in pursuance whereof three departments also sent their vacancy position but before the same could be acted upon, this Court in the CWJC No. 18612 of 2019 (*Kapil Kumar vs. The State of Bihar and ors.*) passed an order dated 18.12.2019 which impacted the present case also. The learned AAG-3 next submits that the panel in which the name of the present petitioner figured was kept in abeyance by order dated 13.01.2020 in CWJC No. 21093 of 2019. It is further submitted that in pursuance of the order of this Court passed in Kapil Kumar's case, the General Administration Department, Government of Bihar had taken a policy decision for making appointment of all the persons in different districts whose name figured in the panel or applied against the advertisement through Bihar Staff Selection Commission. It is further submitted that in pursuance of the policy decision of the GAD dated 23.06.2020, an advertisement also has been issued by the Bihar Staff



Selection Commission giving one time opportunity to all such persons similarly situated like the petitioner to apply and participate in the selection process being conducted in pursuance of the advertisement issued by the Commission.

Learned counsel for the petitioner at this stage submits that the petitioner in his reply to the show cause filed by the Opposite Party No. 2 had brought on record an Office order dated 02.03.2022 issued under the signature of the Under-Secretary, GAD Government of Bihar, wherein it was recorded that except for the District of Patna, Muzaffarpur, Bhagalpur, Gaya, Saran, Nalanda and Bhojpur, in the rest of the districts, the appointment has to be made based on the merit list prepared for the post of Office Clerk, Office Attendant/ Peon and instructor in view of Letter No. 14 dated 28.02.2023. Learned counsel submits that the State has taken a stand that the said Office Order is a forged and fabricated document for which Kotwali (Bhagalpur) P.S. Case No. 341 of 2023 has been instituted in which the petitioner has been made an accused. Learned counsel thus submits that had the petitioner known that the document on which he is placing reliance is forged and fabricated whether he would have brought the same to the notice of this Court, it is next submitted that the said document was



brought on record only to show that two different yardsticks were being adopted by the State Government in making appointment but to coerce the petitioner into submission the FIR was instituted implicating him as an accused.

At this stage, the learned AAG-3 draws the attention of the Court to Annexure-A to the show cause filed on behalf of the Principal Secretary, GAD that is Letter No. 10 dated 11.04.2023 and thereafter relies on paragraph 4 of the said Letter which records - “अतः अनुरोध है कि विषयाधीन एम0जे0सी0 के वादी द्वारा जिस पत्र (संख्या— का0अ0स0/17—नि0—04—01/2021/2017 सा0प्र0—57II/पटना—15 दिनांक 02.03.2022) के आधार पर माननीय पटना उच्च न्यायालय, पटना के समक्ष स्वयं की नियुक्ति का दावा प्रस्तुत किया गया है, उसके अनुरूप यदि किसी जिला में नियुक्ति की कार्रवाई की गयी हो, तब उसे निरस्त करते हुए संबंधित लाभार्थियों के विरुद्ध अपेक्षित कानूनी कार्रवाई की प्रक्रिया अविलंब आरंभ करते हुए कृत कार्रवाई की सूचना सामान्य प्रशासन विभाग को भी दी जाए। ”

The learned AAG-3 thus submits that the letter is clear in its content that criminal action is to be taken against those who have achieved or secure any benefit based on the Letter on which reliance has been placed by the petitioner which subsequently was found forged and fabricated. Learned AAG-3 also assures the Court that he will personally talk to the Collector in this regard to advise that the name of the petitioner



should be deleted from the FIR as the Letter dated 11.04.2023 is without any ambiguity.

The Court accepts what the learned AAG-3 has submitted.

After hearing the learned counsel for the parties and in view of the facts recorded hereinabove and taking into consideration the submissions made by the learned AAG-3, the Court is not inclined to proceed with the contempt application, as such, the contempt application is dismissed however, the same would not preclude the petitioner from participating in the selection process.

(Satyavrat Verma, J)

GauravSinha/-

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