

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4577 of 2019

In
Civil Writ Jurisdiction Case No.14205 of 2015

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Madan Mohan Jha, Son of Late Muni Jha, Resident of Village - Prasad, P.O. - Banki, Via - Madhepura, P.S. - Madhepur, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Vinay Kumar, The Secretary, Rural Works Department, Bihar, Patna.
3. Dr. Praveen Kumar Thakur, The Engineer-in-Chief, Rural Works Department, Bihar, Patna.
4. Sri Kamlesh Chaudhary, The Chief Engineer, Rural Works Department, Hajipur.
5. Sri Mukesh Prasad, The Superintendent Engineer, Rural Works Department, Work Circle-2, Darbhanga.
6. Sri Shashi Shankar Prasad, The Executive Engineer, Rural Works Department, Work Division-2, Benipur (Darbhanga).
7. Dr. Nilotpall Goswami, The Accountant General, Bihar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar, Advocate
For the Opposite Party/s : Mr. Ajay (Ga 5)

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 09-05-2023 Heard learned counsel for the petitioner and learned counsel for the State.

Learned counsel for the petitioner submits that the contempt application has been filed alleging violation of the order dated 21.05.2019 in CWJC No. 14205 of 2015. The learned counsel next submits that CWJC No. 14205 of 2015 was filed by the petitioner after his retirement on 31.08.2009 as he was not granted any promotion or benefits in terms of A.C.P. or



M.A.C.P. scheme despite putting in 30 years of blemishless service. It is next submitted that the writ application was disposed of by order dated 21.05.2019 with a direction to the State Government to grant the benefits of 1st ACP, 2nd ACP and 3rd MACP to the petitioner within a period of three months from the date receipt/ production of a copy of the order, further the learned Writ Court also took care of the submissions made by the learned counsel for the petitioner that in the event, if any objection is raised with regard to non-passing of Hindi Noting and Drafting Examination for granting the benefit of ACP and MACP, the learned Writ Court clearly recorded that the said issue was no longer *Res Integra* as this Court in the case of ***Avinash Chandra Singh vs. The State of Bihar and Ors.*** ***Reported in 2012 1 PLJR 663*** had held that passing of Hindi Noting and Drafting Examination is not required for grant of ACP and MACP. The learned counsel next submits that despite such clear order the petitioner till date has not been granted the benefit and the order of the Writ Court remain elusive. It is further submitted that the State in garb of filing LPA No. 200 of 2020 is still sitting over the order of the Writ Court, when the order of the Writ Court has not been stayed till date.

The learned counsel next submits that it absolutely



does not stand to reason when there is a letter of the State Government itself that orders of the Writ Court has to be complied subject to the outcome of appeal then why the Authorities are sitting over the orders passed by the learned Writ Court in the present case. It is next submitted that the Authorities ought to have complied with the order of the learned Writ Court after taking an undertaking from the petitioner that in the event, if the State succeeds in LPA, the benefits so granted has to be returned but then that was not done. It is next submitted that no Authority howsoever sit over the orders of the Court.

The Court *prima facie* concurs with the submission of the learned counsel for the petitioner. At this stage, the learned counsel for the State submits that he will advise the State Authority to ensure that order of the Writ Court is complied, subject to the outcome of LPA.

At this stage, the learned counsel for the petitioner seeks permission to withdraw the Writ Application based on the submission made by the learned counsel for the State, provided the benefit is given to the petitioner in terms of the order of the Writ Court within a week or two.

Permission is accorded.



In the event, if the benefit of the order of the Writ Court is not complied within three weeks' from today, the petitioner would be at liberty to file a second contempt application.

(Satyavrat Verma, J)

GauravSinha/-

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