

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2729 of 2018

In
Civil Writ Jurisdiction Case No.3353 of 2018

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1. Rajesh Kumar Son of Late Gopi Krishna Mandal Resident of Village-Arazpur, P.S.- Chausa, District- Madhubani.
 2. Sanjay Kumar Singh Son of Late Deoki Prasad Singh Resident of Village-Babanganj, P.S.- Korha, District- Katihar.
 3. Arun Kumar Son of Late Bishwanath Sah Resident of Village- Rajghat, P.S.- Barharakothi, District- Purnea.
 4. Pankaj Kumar Ray Son of Late Bindu Ray Resident of Purnea City, P.S. Sadar, District- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Namely Deepak Kumar Government Of Bihar, Patna Son of not known.
2. The Principal Secretary, Department of Education, Government of Bihar Patna namely Sri R.K. Mahajan, Son of not known.
3. The Principal Secretary, Department of Personel and Administrative Reforms, Government of Bihar, Patna namely Sri Amir Subhani, Son of not known.
4. The Regional Deputy Director of Education Purnea namely Sri Dr. Chandra Prakash Jha Son of not known.
5. The Secretary, Compassionate Appointment Committee Purnea namely Sri Chandra Shekhar Sharma, Son of not known.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shivendra Prasad, Advocate
For the Opposite Party/s	:	Smt. Shilpa Singh, Advocate
For the State	:	Mr. Ram Vinay Pd. Singh, AC to GA 12

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 25-04-2023 Heard learned counsel for the petitioners and learned counsel for the State.

The learned counsel for the State has filed a show-
cause on behalf of the Additional Chief Secretary,
Education Department, Government of Bihar, Patna.



The learned counsel for the State submits that the present contempt application has been filed alleging violation of the order dated 27.02.2018 in CWJC No. 3353 of 2018 passed by the learned Single Judge whereby a direction was issued upon the Authorities to consider the case of the petitioners in light of the judgment dated 23.06.2017 passed in LPA No. 167 of 2016.

The learned counsel for the State submits that the issue involved in LPA No. 167 of 2016 was also subject matter of another writ petition being CWJC No. 23831 of 2018. The learned counsel next submits that when CWJC No. 23831 of 2018 was taken up the same was referred by the learned single Judge before Hon'ble the Chief Justice for referring the matter to a larger Bench on the ground that conflicting views were taken by the Division Benches of this Court in case of Smt. Mosarat Ara Khanam and Mr. Avinash Kumar Chakraborty on the question as to whether the person appointed on compassionate basis in the scale of Rs. 3050-4590/- can claim by way of right of higher pay scale of Rs. 4000-6000/- on the Doctrine of Parity in the pay scale.



The learned counsel next submits that the State of Bihar also filed Civil Review No. 236 of 2019 in LPA No. 167 of 2016 was taken along with LPA No. 669 of 2021 in CWJC NO. 25457 of 2019. It is next submitted that the Hon'ble Division Bench of this Court by order dated 22.12.2022 in Civil Review No. 236 of 2019 directed the case to be listed after decision of the larger Bench as CWJC No. 23831 of 2018 was referred to a larger Bench in which the issues were similar. The learned State counsel thus submits that in the event, if the issue involved in CWJC No. 23831 of 2018 does not stand the scrutiny of the larger Bench then the order passed in LPA No. 167 of 2016 will automatically be held null and void. The learned counsel thus submits that if any relief is granted to the petitioners based on an order passed in LPA No. 167 of 2016 during pendency of the adjudication of CWJC No. 23831 of 2018, as aforesaid, then in that event, the State will have to recover the amount from the petitioners if CWJC No. 23831 of 2018 is dismissed.

The learned counsel thus summarizes his submissions by submitting that the contempt application should await



disposal of CWJC No. 23831 of 2018. It is next submitted that even Civil Review No. 236 of 2019 in LPA No. 167 of 2016, has been directed to be listed after decision of the larger Bench by order dated 22.12.2022 hence for the present no relief can be granted to the petitioners in terms of the order passed by the learned Writ Court.

Considering the submissions made by the learned counsel for the State the Court for the present is not persuaded to proceed with the contempt application.

The contempt application is thus dismissed.

However, the same will not preclude the petitioners to approach this Court again by filing a contempt application in view of the order passed in CWJC No. 23831 of 2018.

It is made clear that in the event, if the decision in CWJC No. 23831 of 2018 favours the petitioners then the order of the Writ Court has to be complied failing which the authorities shall be dealt sternly.

(Satyavrat Verma, J)

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