

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3814 of 2018

In
Letters Patent Appeal No.1724 of 2014

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Archana Choudhary, W/o Sri Manoj Kumar, Resident of Village- Chhoti Madai (Ramrajaya Hospital), Dist- Vaishali (Hazipur).

... .. Petitioner.

Versus

1. Mr. Akhileshwar Kumar Pandeya, the Director Research and Training, Government of Bihar, Patna.
2. Smt. Sangeeta Sinha, the District Education Officer, Vaishali.
3. Dr. Gopa Mukharji, the Principal, District of Education and Training Collage, Dighi, Hazipur.

... .. Opposite Parties.

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Appearance :

For the Petitioner : Mr. Bijay Shankar Choubey, Advocate.
For the State : Mr. AC to AAG-15.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 30-07-2024

This Court has spent hours together on 09.07.2024 and 23.07.2024, resultantly, on 23.07.2024, we have passed the following orders:

“There is no assistance from the State counsel in providing basic material information to the extent that date of examination, first session and second session so as to ascertain whether petitioner was eligible on that particular date or not, therefore, the Principal Secretary, Education Department is hereby directed to send an official who is well



conversant with the matter, failing which adverse order would be passed on the next date of hearing.

2. Relist this matter on 30.07.2024.”

2. The Principal Secretary, Education Department, has drafted two officials, namely, Ms. Shruty, Principal, DIET, Dighi and Mr. Mahendra Kumar, Lab Assistant, DIET, Dighi. They are present in the Court. In the morning session, they could not appraise this Court as to why there is no decision by the competent authority in examining the eligibility of the petitioner Archana Choudhary for the purpose of Diploma in Elementary Education (Face to Face) Examination.

3. It is short order of the Coordinate Bench passed in L.P.A. No.1724 of 2014 on 12.07.2017. The same has been reproduced hereunder:

“Considering the fact that the session for which the issue in question is involved is already over, it would not be appropriate to grant permission to the appellant to appear in the examination for the session which is already over. However, the respondent authorities should permit the appellant to submit a representation and seek indulgence with regard to appearing in the subsequent session which is going on and if permissible,



grant her permission to appear in the examination for the ongoing session or the next upcoming session, subject to fulfilling the other requirement of attendance etc. as per rules.

With the aforesaid modification and clarification, the Letters Patent Appeal stands disposed of.”

4. Perusal of the aforesaid order dated 12.07.2017 of the Coordinate Bench passed in L.P.A. No.1724 of 2014, the concerned authority was required to examine the eligibility of the petitioner for the purpose of aforementioned examination in the ensuing session. At this stage, it was submitted that the aforementioned examination is conducted on yearly basis, probably in the month of June.

5. Having regard to the fact that the order passed in L.P.A.1724 of 2014 is dated 12.07.2017, the petitioner’s grievance cannot be considered in the year 2017. In other words, for the month of June, 2018, it was required to be considered. Respondents have stated that petitioner was not fulfilling the prescribed attendance. Therefore, her name was not considered, if it is so, in the next examination also, her name was required to be considered in terms of the Coordinate Bench order, namely, in the month of June, 2019. Even for the month



of June, 2019, petitioner was not fulfilling attendance requirement. In such circumstances, in the guise of the implementation of the orders of this Court dated 12.07.2017 passed in L.P.A. No.1724 of 2014, the concerned authority was left with an option of rejecting the petitioner's claim for appearance in the examination in the month of June, 2018 and June, 2019. To that effect, there was no decision in writing. The present M.J.C-Contempt Petition was filed on 19.09.2018. The Respondents should have rejected petitioner's claim in writing and they have presumed that petitioner was not eligible, similarly in the month of June, 2019. On the other hand, they presumed that the petitioner was not fulfilling the attendance requirement permitting her to participate in the examination conducted in the month of June, 2018 and June, 2019 respectively or in the alternative, they had remedy of filing Civil Review in L.P.A. No.1724 of 2014 decided on 12.07.2017.

6. These two exercise have not been undertaken by the official respondents, resultantly, they have committed contempt of Court. Despite the fact that the petitioner was not eligible. In all fairness, the official respondents/competent authority should have proceeded to pass an order insofar as highlighting the ineligibility of the petitioner to participate in



the examination to be conducted in the month of June, 2018 and June, 2019 respectively. Even to this date they have not passed any order and its communication to the petitioner. Resultantly, they have committed contempt. Instead of initiating contempt of Court proceedings against the concerned officials and so also impracticability, for the reasons that the present competent authority is a new incumbent, who is stated to have assumed the charge of the post in the year 2023-2024. Thus, we proceed to pass order imposing litigation cost and it is quantified at Rs.5000/-. Cost shall be paid to the petitioner within a period of eight weeks from the date of receipt of this order.

7. Accordingly, the present M.J.C./Contempt Petition stands dropped.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
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