

IN THE HIGH COURT OF JUDICATURE AT PATNA
Or. Criminal Miscellaneous (DB) No.1 of 2024

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

Indradev Prasad Son of Late Baleshwar Mahto Resident of Village and P.O-
Jamuara ,P.S- Narhat, Dist- Nawada State- Bihar , Pin – 805103

... .. Petitioner/s

Versus

1. Mahadivakhta , Bihar, Shri P.K. Sahi Patna
2. Registrar General, Patna High Court Patna, Shri Pradip Kumar Malik Bihar
3. Advocate Association, Patna High court through General Secretary, Shri Jaishankar Prasad Bihar
4. Bihar State Bar Council through its chairman Shri Ramakant Sharma Bihar
5. Bar Council of India through its Chairman Shri Manan Kumar Mishra Bihar
6. Law Secretary, Bihar Gov. Patna, Shri Surendra Prasad Sharma Bihar
7. State of BIhar through Chief Secretary Cabinet Secretariat (Rajya Bhasha) Dept. Bihar Shri Dr. S. Sidharath
8. Union of India through Home Secretary Gov. of India, New delhi, Shri Ajay Kumar Bhalla New Delhi
9. All India Language Preservation Organisation through its Chairman Shri Harpal Singh Rana New Delhi
10. Global Hindi Conference Mumbai through its Director Dr. M.L. Gupta Mumbai
11. Indian Language Campaign, BIhar State through Convenor, Shri Parmanand Prasad Bihar

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 17542 of 2018

Indradeo Prasad

... .. Petitioner/s

Versus

Advocate General, Bihar, Patna High Court, Patna and Ors

... .. Respondent/s

Appearance :

(In Or. Criminal Miscellaneous (DB) No. 1 of 2024)

For the Petitioner/s	:	Mr. Indradeo Prasad (In Person)
		Mr. Saket Tiwary, <i>Amicus Curiae</i>
For the respondent/s	:	Mr. Vishwajeet Kumar Mishra, Adv
		Mr. Anshay Bahadur Mathur, CGC
		Mr. Ram Jiban Pd. Singh, Advocate
		Dr. K.N. Singh, ASG
		Mr. Sunil Kumar Singh, No.10, Advocate
		Mr. Satyabir Bharti, Advocate
		Mr. Jay Shankar Prasad, Advocate



Mr. Rajesh Kumar, Advocate
Mr. Shantanu Kumar, Advocate

(In Civil Writ Jurisdiction Case No. 17542 of 2018)

For the Petitioner/s : Mr. Indradeo Prasad (In Person)
For the Respondent/s : Mr. Jay Shankar Prasad Singh, Advocate
Mr. Sunil Kumar Singh, No. 10, Advocate
Mr. Rajesh Kumar, Advocate
Ms. Sikha Kumari, Advocate
Mr. Ram Jiban Pd. Singh, Advocate
Mr. Harpal Singh Rana, Advocate
Mr. Shantanu Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
CAV JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-07-2024

The writ petition and the criminal miscellaneous case are disposed of jointly since, even according to the petitioner, the Criminal Miscellaneous Case (OCR. MISC) arose due to the proceedings in the writ petition. The writ petition was filed against Rule 1 of the Patna High Court Rules, 1916 which provides that all applications in the Patna High Court shall be filed in English Language. The writ petition itself notices that by a notification, dated 09.05.1972, Hindi Language was directed to be used alternatively in the High Court at Patna in civil and criminal proceedings. The same was challenged before this Court and as admitted by the petitioner in the memorandum of writ petition, the matter was pending consideration of a Full Bench. The Full Bench has decided that insofar as the writ proceedings and tax matters are concerned, there should be a



translated copy filed along with the petition, if the petition is filed in Hindi. The decision is reported in ***Krishna Yadav v. State of Bihar & Others*** reported in **2019 (2) PLJR 809**. Going by the said binding precedent, there is no scope for further consideration of the above writ petition which was filed in 2018, even before the decision of the Full Bench. It also has to be pertinently observed that the party-in-person appearing in the above writ petition was one of the learned counsel appearing before the Full Bench. Obviously, he did not apprise the Full Bench about the pending writ petition of the year 2018, filed before disposal of the case by the Full Bench; wherein he himself was the petitioner.

2. In the course of the proceedings on 16.04.2024, when the matter was heard, the Advocate who is the petitioner appearing in person had also made arguments with respect to his removal from the post of Government Advocate. We took the matter for orders after hearing the writ petition in the morning. In the afternoon, the learned Advocate General appeared and made submissions regarding the removal of the petitioner from the post of Government Advocate. We thought it fit that such submissions should be made in the presence of the party, who appeared in person and hence we posted this matter on



18.04.2024; on which later date what transpired on 16.04.2024 was recorded in the order. The petitioner, who appeared in person, on 18.04.2024, attempted to hand over a document across the Bar, which we refused to accept and directed him to file along with a petition before the next posting date.

3. On the next posting date, there was an intervenor application by one Global Hindi Summit which was dismissed by us on 29.04.2024. However, by reason of the arguments addressed earlier regarding the removal of the petitioner from the office of Government Advocate, we recorded that the intervening application is by a meddlesome interloper when the writ petition is against the removal of the petitioner from the post of Government Advocate. The same obviously is a mistake and we review the said order *suo motu* removing the observations regarding the applicant therein being a meddlesome interloper and the writ petition having challenged the removal of the petitioner from the post of Government Advocate. However, we do not find any reason to allow the application as such since, the matter is settled by a Full Bench as per the cited decision.

4. Now, we come to the OCR. MISC filed against the Advocate General alleging criminal contempt. The petitioner



is said to have moved the Advocate General himself and then filed the above application. The learned Counsel appearing for the Advocate General submits that the Advocate General has rejected the prayer, which has not been challenged by the petitioner.

5. Since the OCR. MISC was filed without the consent in writing of the Advocate General, as is required under Section 15 of the Contempt of Courts Act, 1971, we directed the Registry to file a report as to why the case was numbered. The Registry has filed a report relying on Rule 5 of the Rules of High Court at Patna, the proviso of which is so worded:-

“All proceedings presented to the centralized filing section shall be entered in the Computerized/Digital Register, maintained for the purpose. The person presenting the same shall, thereafter, be granted a receipt showing the date of such presentation, nature of the proceedings, name of the first applicant and the name and number of AOR through whom it is filed and such other information as may be specified by the orders of the Chief Justice, from time to time.

Provided that where the proceedings relate to any matter, which requires, reporting in respect of limitation or application for initiation of contempt proceeding, civil or criminal, the receipt of the proceedings shall be properly numbered according to the case type and the receipt of filing shall show the said case number.

Once any proceeding is so received, numbered and registered, they will not be returned to any party, except on orders passed by the Court.

All other proceedings shall be assigned token numbers in chronological order with other particulars as



specified above.

Pleadings in pending matters, after grant of filing receipt, with respective case number, shall be sent to the respective section for further action.”

It is hence, the matter was numbered and the same posted as defective before Court.

6. On the last posting date i.e. 16.05.2024, since the party in person insisted on arguing in Hindi we appointed an *amicus curae* to whom the petitioner was to put forth his contentions, who would then appear to argue the case of the petitioner. On 17.05.2024, when the matter was posted, being the last date before vacations we adjourned the same. The learned counsel appearing for the Advocate General had submitted that the petitioner had been making representations against the Advocate General on the ground of filing of OCR. MISC. On 17.05.2024 we hence passed an order clearly indicating that no notice was issued in the OCR. MISC and *prima facie* we were not satisfied that any contempt lies. The petitioner was also advised not to make any representations on the basis of the petition filed.

7. Today, we heard the matter. The learned *amicus curiae* Sri Saket Tiwari pointed out that this Court had wrongly understood the writ petition to be one challenging the removal



of the petitioner from the post of Government Advocate. It is pointed out from the writ petition that on 16.04.2024, the petitioner's belongings were removed from the premises occupied by the Government Advocates and this has led to the filing of criminal contempt. We have also gone through the translated version of the OCR. MISC filed by the petitioner.

8. The petitioner alleges that the respondent who was the Advocate General, had adversely affected the due course of judicial proceedings in C.W.J.C. No. 17542 of 2018 and that he is bound under Article 165 (2) of the Constitution of India to support the notification issued by His Excellency, the Governor of Bihar. It is based on this allegation that the OCR. MISC is filed.

9. The memorandum also produces the order, dated 18.04.2024, passed in the writ petition, which is claimed to have entitled the petitioner to file the OCR. MISC case. We see that the petitioner has also filed a supplementary affidavit, dated 19.04.2024, in the writ petition raising the very same allegations. We cannot, but presume that the supplementary affidavit was sought to be handed over to us across the Bar on 18.04.2024, which we refused to accept. We also directed the petitioner to file a proper petition before the next posting date.



The said order does not entitle the petitioner to file an OCR. MISC. The averments in the supplementary affidavit filed and the OCR. MISC are almost similar. In the OCR. MISC, the petitioner also has alleged that he was a Law Officer of the State appointed on 25.07.2016 and had been continuously holding the post since then. Since he was not being allowed to conduct government cases, himself and the Advocates assisting him are suffering from monetary loss. It is also alleged that on 13.02.2020, in the writ petition, a Division Bench had passed an order directing the Advocate General, Bihar, to file a counter affidavit which has not been done.

10. We have already found that C.W.J.C. No.17542 of 2018 does not survive for consideration after the Full Bench decision. We also have to pertinently observe that the removal of the petitioner from the post of Government Advocate/Law Officer of the State is not challenged in the above proceedings. We find absolutely no reason to initiate any contempt based on the frivolous grounds raised in the writ petition. We are also informed that the Advocate General has already declined consent.

11. We extract hereunder the definition of 'criminal contempt' as found in Section 2 (c) of the Contempt of



Courts Act, 1971:

(c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which—

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

We do not find any of the ingredients in clauses (i) to (iii) having been attracted. The Advocate General has not in any manner scandalized or lowered the authority of the Court, nor interfered with or obstructed the due course of any judicial proceeding or the administration of justice in any manner

12. We cannot but observe that petitioner had also made scurrilous remarks of the Advocate General having visited the Hon’ble Chief Justice in his Chambers and requested the case to be posted for re-hearing. We have already recorded in the order passed on 18.04.2024, in open Court, that the Advocate General had on the previous posting date, after the matter was reserved for judgment, made submissions; which we thought it fit, should be appropriately made when the party-in-person is present. The submission of the Advocate General on



16.04.2024 was in open Court before this very same Division Bench and the allegation raised is without proper verification and despite, our informing the petitioner that the submission made by the Advocate General was in open Court. We caution the petitioner from making such scurrilous allegations without proper verification, but desist from taking any further action only considering the fact that he is a member of the Bar and is obviously misguided.

13. On the above reasoning we reject the writ petition and also the OCR. MISC Case.

(K. Vinod Chandran, CJ)

Harish Kumar, J. I agree

(Harish Kumar, J)

sharun/-

AFR/NAFR	
CAV DATE	26.06.2024
Uploading Date	04.07.2024
Transmission Date	

