

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1247 of 2018

In
Civil Writ Jurisdiction Case No.4035 of 2017

=====

Kula Nand Jha, Son of Late Pandit Uma Kant Jha, Resident of Village-Birsair, P.S.- Sakri, Distt- Madhubani, at present Director-cum-Principal of Mithila Hanumant National College of Health and Physical Education, Goi Mishra Lagma, Ghanshyampur, District- Darbhanga.

... .. Petitioner

Versus

1. The State of Bihar through Shri Chaitanya Prasad, at present working as The Principal Secretary, Art, Culture and Youth Department, Government of Bihar, Patna, Son of name not known to the petitioner.
2. Dr. Sanjay Sinha, Son of name not known to the petitioner, at present working as the Director, Art, Culture and Youth Department, Government of Bihar, Patna.
3. The National Council for Teacher Education, Eastern Regional Committee, Nayapalli, Bhubneshwar, Orissa, through Shri Pradeep Kumar Yadav.
4. Shri Pradeep Kumar Yadav, Son of name not known to the petitioner, at present working as the Regional Director, the National Council for Teacher Education, Eastern Regional Committee, Nayapalli, Bhubneshwar, Orissa.
5. The Bihar School Examination Board, through the Secretary, Shri Anoop Kumar Sinha, Budh Marg, Patna.
6. Shri Anoop Kumar Sinha, Son of name not known to the petitioner, at present working as Secretary, the Bihar School Examination Board, Budh Marg, Patna.

... .. Opposite Parties

=====

Appearance :

For the Petitioner	:	Mr. Kripa Nand Jha, Advocate
For the BSEB	:	Mr. Satyabir Bharti, Sr. Advocate with Mr. Abhishek Anand, Advocate Ms. Kanu Priya, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13

=====

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

6 20-06-2025 The present proceedings are filed under Sections 10 &

12 of the Contempt of Court Act, 1971 read with Article 215 of



the Constitution of India by the applicant/original writ petitioner.

2. Heard Mr. Kripa Nand Jha, learned counsel for the petitioner, Mr. Satyabir Bharti, learned senior counsel for the B.S.E.B. assisted by Mr. Abhishek Anand & Ms. Kanu Priya and Mr. Sarvesh Kumar Singh, learned AAG-13 for the State.

3. Learned counsel for the petitioner would mainly refer the averments made in the memo of the application and thereafter contend that the present application has been filed in CWJC No.4035 of 2017. It is submitted that the learned Single Judge allowed the said writ petition vide order dated 12.10.2017, whereby direction was issued to the concerned respondent to complete the formality of granting affiliation in favour of the college in question within two weeks from the date of the said order, by applying Sub Section (6) of Section 14 of the National Council for Teacher Education Act, 1993 (hereinafter referred to as Act).

4. Learned counsel further submits that the concerned respondent did not comply with the said order and thereafter challenged the order passed by the learned Single Judge by filing Letters Patent Appeal No.1640 of 2017. It is submitted that, in the meantime, the applicant has initiated the present



proceedings under the provisions of the Contempt of Courts Act. At this stage, it has been pointed out that the Division Bench of this Court, vide order dated 09.04.2019, did not interfere with the direction issued by the learned Single Judge with regard to grant of affiliation and partly allowed the appeal.

5. Learned counsel, at this stage, has fairly submitted that after the order passed by the Division Bench of this Court, the concerned respondent-authority has granted affiliation to the applicant/original writ petitioner-institution from the year 2020. Learned counsel for the applicant/writ petitioner has raised the grievance that the respondent ought to have granted such affiliation from the year 2015 and thereby the respondent did not comply with the direction issued by the learned Single Judge in its true spirit. Learned counsel for the applicant, therefore, urged that the proceedings under the provisions of the Contempt of Courts Act be initiated against the concerned Respondent-Authorities.

6. On the other hand, learned senior counsel opposed the present application. Learned senior counsel would mainly contend that, in fact, there is no intentional and wilful disobedience of the direction issued by the learned Single Judge, as alleged by the applicant in the present application. He further



submits that the learned Single Judge granted permission to the respondent herein to grant such affiliation within a period of two weeks from the date of such order. However, the respondent preferred Letters Patent Appeal before the Division Bench of this Court and, in fact, the Division Bench disposed of the said appeal in April, 2019 by granting further four weeks' time from the date of such order. Learned senior counsel further submits that it is not in dispute that thereafter the respondent-authorities have already granted affiliation to the petitioner-institution from the year 2020. It is contended that if the applicant is aggrieved by the decision taken by the respondent-authority, it is always open for the applicant-institution to challenge the said decision by filing appropriate proceeding before appropriate forum. However, the present proceedings under the Contempt of Courts Act is misconceived. Learned counsel, therefore, urged that the present application be dismissed.

7. We have considered the submissions canvassed by learned counsels appearing for the parties. We have also perused the material placed on record. It would emerge from the record that the learned Single Judge, in the petition filed by the present applicant/original writ petitioner, passed the order on 12.10.2017, whereby the direction was issued to the concerned



respondent, i.e., the Chairman of Bihar School Examination Board, to complete the formality of granting affiliation in favour of the original petitioner-college within two weeks from the date of the said order. It is true that the concerned respondent did not comply with the said order immediately and, therefore, the applicant has filed the present application. However, the fact remains that the order passed by learned Single Judge was challenged by the concerned respondent by filing Letters Patent Appeal being LPA No.1640 of 2017. The Division Bench of this Court passed an order on 09.04.2019, whereby the Division Bench granted four weeks' to the concerned respondent to discharge its legal obligation cast under Section 14(6) of the Act. Thus, four weeks' time was granted by the Division Bench of this Court for discharging the legal obligation by the respondent board.

8. Learned counsel for the applicant has fairly submitted that after the disposal of the Letters Patent Appeal, the Respondent-Authority has already granted affiliation in the year 2020. It appears that limited grievance of the applicant in the present proceeding is that the Respondent-Authority has not fully complied with the direction issued by the learned Single Judge and thereby committed the Contempt of Court. Learned



counsel for the applicant has, therefore, urged that the proceedings under the provisions of Contempt of Courts Act be initiated.

9. From the material placed on record and in the facts and circumstances of the present case, we are of the view that there is no intentional or wilful disobedience on the part of the concerned respondent for non-compliance with the direction issued by learned Single Judge in the order dated 12.10.2017. It is required to be recalled that the Division Bench has passed an order in April, 2019, whereby further period of four weeks was granted to the concerned respondent for grant of affiliation and thereafter within reasonable time, the affiliation has been granted to the applicant-institution. We are, therefore, of the view that the present proceedings filed in the year 2018 for the alleged non-compliance of the direction issued by the learned Single Judge is misconceived. Therefore, we are not inclined to entertain the present application.

10. Accordingly, the present application stands dismissed. However, it is always open for the petitioner herein to file appropriate proceeding before appropriate forum if the applicant is aggrieved by the decision of the Respondent-Authority for grant of affiliation from the year 2020 and not



from the year 2015 in accordance with law.

(Vipul M. Pancholi, J.)

(Rudra Prakash Mishra, J.)

Gaurav Kumar/-

U			
---	--	--	--

