

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.637 of 2019

In

Civil Writ Jurisdiction Case No.4636 of 2007

HORIL MANDAL S/o- Late Chhanguri Mandal R/o- Mohalla-
Kahalgaon(chaudhary Tola Ward No. 10), Post Office and Police Station-
Kahalgaon, Dist- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar Through Its Chief Secretary, Bihar, Patna Namely Deepak Kumar.
2. The Bihar State Agriculture Produce Market Board through Its Managing Director, Panth Bhawan, Baily road, Patna Namely Rabindra Nath Roy at present Administration,Bihar State Agriculture Marketing Board(Dissolved) Panth Bhawan, Patna
3. The Secretary, Bihar State Agriculture Produce Market Board, Patna, Panth Bhawan Bailey Road Patna, Namely Rabindra Nath roy at Present Special secretary Agriculture Department Cum Administrator, Bihar State Agriculture Market Board(Dissolved), Panth Bhawan, patna
4. The Regional Director, Agriculture Produce, Market Board Range, Bhagalpur, P.O and P.S Bhagalpur, Bhagalpur, namely Ashishnarayan at Present after repeal act S.D.O cum Special Officer, Po ,PS Bhagalpur
5. Secretary, Agriculture Produce Market committee, Kahalgaon, P.O., P.s. Khalgaon, Bhagalpur, Namely sujay kumar singh at present S.D.O cum special officer agriculture Produce Market Committee, Kahalgaon, P.o, P.S.- Kahalgaon, Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Bijoy Kant Mishra, Advocate Mr. Ashutosh Jha, Advocate Mr. Avinav Kumar, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, A.A.G.13

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR

ORAL JUDGMENT

Date : 15-05-2026

Heard the learned counsel for the parties.

2. The present contempt petition has been filed for non-compliance of order dated 15.12.2015, passed in C.W.J.C. No.4636 of 2007, whereby the writ petition was allowed and



the impugned order dated 12.02.2007, issued by the Secretary, Bihar State Agriculture Produce Market Board as well as the consequential order dated 21.02.2007, passed by the Special Officer, Agriculture Market Committee was found to be not sustainable in view of the Resolution and office order of the Bazar Samiti, dated 30.06.1990 as well as the letter of the Board dated 05.11.1980, as per which Bazar Samiti was competent to make appointment on Class IV post. The impugned order was, accordingly, set aside and the matter was remitted back to respondent no.3, the Principal Secretary/Secretary of Agriculture Department for fresh consideration of the case of the petitioner.

3. The learned counsel for the petitioner submits that the order dated 15.12.2015 was passed after considering the submissions made by the learned counsel for the petitioner and so far the appointment of the petitioner is concerned, the same was a permanent appointment, therefore there is no question that the petitioner was in the daily wage establishment.

4. A show-cause has been filed on behalf of opposite parties no.2 to 4, wherein it has been stated that after passing of the order dated 15.12.2015, the petitioner appeared



along with his Advocate, before the Principal Secretary, Agriculture Department on 15.05.2018 for personal hearing on his claim. After hearing, it transpired that the petitioner was engaged as a daily wager in the erstwhile Bihar State Agriculture Produce Marketing Board. By office order no.52, contained in Memo No.337, dated 30.06.1990, the petitioner was recommended for regular appointment. In the light of the recommendation, the Market Secretary, Agriculture Produce Market Committee, Kahalgaon, Bhagalpur issued an office order dated 11.10.1990 to the effect that till approval of the Board, the petitioner shall be paid his wages as a daily wage employee. The State Government came out with a Repeal Act, 2006, by which the Bihar State Agriculture Marketing Board as well as all the Market Committee was dissolved. In view of the resolution no.1108, dated 15.03.2007, issued by the Agriculture Department, a decision was taken to absolve the daily wager from their daily wage work and such decision was taken on the basis of the recommendation of the Committee, consisting of three Secretaries. Vide order no.02, contained in Memo No.54, dated 21.02.2007, the services of the petitioner was terminated by the Agriculture Produce Market Committee (dissolved), Kahalgaon, Bhagalpur and thereafter the



termination of daily wagers got approval by resolution no.1743, dated 27.03.2012, issued by the State Government under the Department of Agriculture. After hearing the petitioner and his Advocate, the then Principal Secretary, Department of Agriculture took a decision that since the employees of the dissolved Board have been absolved as per the recommendation of a Committee of three Secretaries, constituted vide letter no.476, dated 20.09.2006, issued by the Agriculture Production Commissioner, therefore the representation of the petitioner was endorsed to be placed before the Agriculture Production Commissioner, who is the head of the Committee, to take final decision in the matter. The Secretary, Agriculture Department vide letter no.3551, dated 23.10.2019, sought for guideline from the Additional Chief Secretary, General Administration Department, Government of Bihar, Patna and requested to constitute a Committee of three Secretaries consisting of Additional Chief Secretary, General Administration Department, Government of Bihar, Patna as the Chairman, the Principal Secretary, Finance Department and the Secretary, Agriculture Department, Government of Bihar, Patna, so that the matter of the petitioner and others can be placed for consideration. No sooner the Committee will be



constituted, the claim of the petitioner, as per direction of the Hon'ble Court, shall be considered and necessary final decision will be taken by the Committee.

5. Subsequently, a supplementary show-cause was filed on behalf of opposite parties no.2 to 4, wherein it has been stated that on 09.11.2020, a meeting of the three members committee was held, in which the case of the petitioner was also placed for consideration. The Committee after due deliberation took a decision that the Secretary, Agriculture Department shall himself dispose of the matter by passing an appropriate order, in terms of the decision taken by the Committee of three Secretaries. Accordingly, The Secretary, Agriculture Department, Government of Bihar, Patna passed an order contained in Memo No.1440, dated 18.12.2020, whereby the claim of the petitioner was rejected. It has further been stated that on 08.09.2020 itself, the Secretary, Agriculture Department heard the matter through video conferencing, after giving an opportunity to the petitioner.

6. A reply has been filed on behalf of the petitioner to the show-cause filed on behalf of opposite parties no.2 to 4, wherein it has been stated that in para 17 and 18 of the order dated 15.12.2015, it has been held as follows:

“17. In view of the Scheme framed



by the three men committee approved vide Government Resolution dated 15.03.2007, the issue which comes for consideration is whether the appointment of the petitioner was valid and legal. In case, the appointment was invalid, the respondent would be right in not absorbing him in regular service. I find that the petitioner was appointed against a sanctioned post by the competent authority on daily wage basis. His service was regularized vide resolution of the Bazar Samiti, Kahalgaon. It is true that no advertisement was issued for the said post in the year 1985 when petitioner was engaged on daily wage basis. May be the advertisement was not issued, as the appointment was being made against a solitary post. His services was regularized in the year 1990 vide Resolution and office order dated 30.06.1990 of Bazar Samiti. However, after 17 years of the regularization, the respondent No. 6 held him to be a daily wage employee. It is not the case of respondent that the regularization was bad or the Bazar Samiti lacked necessary jurisdiction to make appointment on Class-IV post.”

18. “The impugned order thus would not be sustainable in view of the Resolution and office order of the Bazar Samiti, dated 30.06.1990 as well as letter of the Board dated 05.11.1980 (Annexure-10), as per which Bazar Samittee is competent to make appointment on Class IV Post. The impugned order is, accordingly, set aside and the matter is remitted to respondent No. 3, Principal Secretary/Secretary of Agriculture Department of fresh consideration of petitioner’s case.”

7. The learned counsel for the petitioner submits



that from perusal of the two paragraphs, mentioned above, it is clear that the appointment of the petitioner was a permanent appointment and accordingly, this Hon'ble Court set aside the order dated 12.07.2007 and 21.02.2007. He further submits that no L.P.A. (Appeal) has been filed by the State of Bihar or its authorities against the order dated 15.12.2015 and since the matter was remitted back to the three men committee to consider the case, in that view of the matter, the three men committee was only to consider the payment of back wages to the petitioner and nothing else. He further submits that the action of the contemnor-opposite parties is in violation of the order passed by this Court on 15.12.2015. It is submitted that as propounded by this Hon'ble Court as well as by the Hon'ble Apex Court, that in a contempt proceeding, the action of the contemnor is a vital part to decide. The learned counsel appearing on behalf of the petitioner submits that the Hon'ble Supreme Court of India in a case reported in **AIR 2026 SC (Civil) 274 (Bhaskar Govind Gavate v. State of Maharashtra)** in paragraph no.11 has held as follows:

“11. For the aforesaid reasons, the judgment dated 26.02.2022 passed in contempt Petition No.315 of 2003 is set aside. The proceedings in Contempt Petition No.315 of 2003 are restored before the High Court for being



considered afresh in the light of the observations made hereinabove. It is, however, clarified that we have not expressed any opinion on the merits of the rival submissions and that the same can be raised before the High Court for its consideration. The Civil Appeal is allowed and disposed of in the aforesaid terms.”

8. The learned counsel for the petitioner further refers to and relies upon a judgment of the Hon’ble Supreme Court of India in the case of **Indian Medical Association & Anr. v. Union of India & Ors.**, reported in **AIR 2024 SC (Civil) 2423**, wherein in paragraph nos.10, 24 and 25, it has been held as follows:

“10. We may also refer to the transcription of the statements made by Baba Ramdev in a Press Conference conducted by Patanjali on 22nd November, 2023, i.e., on the very next day to this Court passing the order on 21st November, 2023, recording the undertaking given by learned counsel for Patanjali that there shall be no violation of any law relating to advertising or branding of products manufactured and marketed by Patanjali and that no casual statements claiming medicinal efficacy or against any system of medicine will be released to the media in any form. In the said transcription, Baba Ramdev alluded to the aforesaid order passed by this Court and asserted that a group of doctors were making false propaganda claiming that “there is cure for diseases like BP, sugar, thyroid, asthma, arthritis, liver and kidney failure”, that they have



“discontinued insulin for more than a crore people”; that “children with type-1 diabetes have been cured” and that “ we cure blood pressure, thyroid, type – 1 diabetes, asthma and turn CRP positive to negative”. Referring to the order passed by this Court on 21st November, 2023, Acharya Balkrishna made a statement in the very same Press Conference, that “Corona could not be cured by allopathy.....” and that “Coronil has not only protected the family but also followed all protocols and rules”.

24. In the above context, we may profitably refer to the observations made in Murray and Company v. Ashok Kr. Newatia and Another wherein, this Court stated as follows:

“9....The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law since the image of such a majesty in the minds of the people cannot be led to be distorted. The respect and authority commanded by courts of law are the greatest guarantee to an ordinary citizen and the entire democratic fabric of the society will crumble down if the respect for the judiciary is undermined. It is true that the judiciary will be judged by the people for what the judiciary does, but in the event of any indulgence which can even remotely be termed to affect the majesty of law, the society is bound to lose confidence and faith in the judiciary and the law courts thus, would forfeit the trust and confidence of the people in general.”

25. In Pushpaben and Another v.



Narandas Badiani and Another, this Court had highlighted the significance of the special jurisdiction under the Act in the following words:

“42. The contempt of court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. This jurisdiction may also be exercised when the act complained of adversely affects the majesty of law or dignity of the courts. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. It is an unusual type of jurisdiction combining “the jury, the judge and the hangman” and it is so because the court is not adjudicating upon any claim between litigating parties. This jurisdiction is not exercised to protect the dignity of an individual judge but to protect the administration of justice from being maligned. In the general interest of the community it is imperative that the authority of courts should not be imperilled and there should be no unjustifiable interference in the administration of justice. It is a matter between the court and the contemner and third parties cannot intervene. It is exercised in a summary manner in aid of the administration of justice, the majesty of law and the dignity of the courts. No such act can be permitted which may have the tendency to shake the



public confidence in the fairness and impartiality of the administration of justice.”

9. On the basis of the above-mentioned judgments of the Hon’ble Supreme Court of India, the learned counsel for the petitioner submits that the contempt court, sitting in a contempt jurisdiction has to see that whether the order has been complied in its true spirit or not and if it comes to the conclusion that the same is in teeth of the order passed by the writ court, then appropriate action has to be taken under the contempt jurisdiction. He further submits that before taking any decision in a contempt proceeding, sympathy has to be considered and in the present case, since the petitioner had worked for long period, his case is fit to be considered and the opposite parties are liable to be proceeded against in the contempt jurisdiction.

10. Having heard the learned counsel for the parties and after considering the materials available on record, it appears that the learned Co-ordinate Bench of this Court while setting aside the order dated 12.02.2007, passed by the Secretary, Bihar State Agriculture Produce Market Board as well as the consequential order dated 21.02.2007, passed by the Special Officer, Agriculture Market Committee, remitted the matter back to the Principal Secretary/Secretary of the



Agriculture Department for consideration of the case of the petitioner afresh. It appears from the show-cause filed on behalf of the opposite parties no.2 to 4 that the Secretary, Department of Agriculture, Government of Bihar, Patna after hearing the petitioner through video conferencing and the other officials of the Agriculture Department, proceeded to reject the claim of the petitioner and there is no infirmity in the reasoned order passed by the Secretary contained in Memo No.1440, dated 18.12.2020.

11. The Hon'ble Supreme Court of India in **Civil Appeal No.6356 of 2000**, decided on 24.08.2004 (**State of Bihar & Ors. vs. Rajendra Singh & Anr.**) has held that while dealing with an application for contempt, the Court is really concerned with the question whether the earlier decision, which has received its finality, had been complied with or not. It would not be permissible for a Court to examine the correctness of the earlier decision which had not been assailed and to take the view different than what was taken in the earlier decision. It was further held that If any party concerned is aggrieved by the order which in its opinion is wrong or against rules or its implementation is neither practicable nor feasible, it should always either approach to the Court that



passed the order or invoke jurisdiction of the Appellate Court. Rightness or wrongness of the order cannot be urged in contempt proceedings. Right or wrong, the order has to be obeyed. Flouting an order of the Court would render the party liable for contempt. While dealing with an application for contempt the Court cannot traverse beyond the order, non-compliance of which is alleged. In other words, it cannot say what should not have been done or what should have been done. It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction, while dealing with an application for initiation of contempt proceedings. The same would be impermissible and indefensible.

12. Considering the above, this Court is of the considered opinion that an order has been passed by the Secretary, Department of Agriculture, Government of Bihar, contained in Memo No.1440, dated 18.12.2020, therefore this Court in a contempt jurisdiction cannot test, that whether the order is right or wrong. The petitioner has got liberty to challenge the same in an appropriate proceeding.

13. Accordingly, the present contempt petition is



dismissed with a liberty to the petitioner to assail the order
contained in Memo No.1440, dated 18.12.2020, if so advised.

(Ritesh Kumar, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.05.2026
Transmission Date	NA

