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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2012 (Contempt)

(Arising out of order dated 06.07.2012

Passed in C.W.J.C. No. 11449 of 2012)

Dipesh Kumar Petitioner.

Versus

The State of Bihar and othersContemnors/O.P.

Sub: Contempt Matter.

I N D E X

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Through:-
Pravos Mishra
Advocate for Petitioner
24.9.12
AMM - 111.

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2012 (Contempt)

(Arising out of order dated 06.07.2012
Passed in C.W.J.C. No. 11449 of 2012)

In the matter of an
application Under Section
11 and 12 of the Court of
the Contempt Act read
with Article 215 of the
Constitution of India;

And

In the matter of

Dipesh Kumar, son of Jai Prakash Narayan, Assistant
Teacher, Upgraded Middle School, Daha, Block-Gamharia,
District-Madhepura.

..... Petitioner.

VERSUS

1. The State of Bihar through the Principal Secretary,
Education Department, Government of Bihar, Patna,
namely

2. The Director, Department of Education, Government of Bihar, Patna, namely
 3. The District Education Officer, Madhepura, namely
 4. The District Programme Officer (Establishment), Madhepura, namely
- Contemnors/Opposite Parties.

To,

The **Hon'ble Ms. Justice Rekha M. Doshit**, the Hon'ble Chief Justice of the High Court of Judicature at Patna and Her Companion Justices of the said Hon'ble Court.

The humble petition on behalf of the petitioner above-named;

Most Respectfully Sheweth:-

1. That this application is being filed for initiation of a proceeding of civil contempt against the Contemnors/Opposite Parties for their wilful disobedience and deliberate disrespect to the order dated 06.07.12 passed in CWJC No. 11449/2012

(Dipesh Kumar Vs The State of Bihar and others) by
Hon'ble Mr. Justice Navin Sinha, J.

2. That the petitioner challenged the order dated 28.2.2012 before this Hon'ble Court in aforesaid C.W.J.C. No. 11449/2012 by which the order of transfer of the petitioner vide order dated 31.1.2012 was cancelled.
3. That after hearing the parties this Hon'ble Court vide order dated 06.07.12 allowed the writ petition and quashed the order dated 28.2.2012.

A Photo copy of order dated 06.07.2012 is annexed herewith and marked as Annexure-1 to this petition.

4. That the petitioner after filing his representation with a copy of the order of this Hon'ble Court has been continuously pursuing his grievance before the Contemnors/Opposite Parties but till date the order of this Hon'ble Court has not been complied with.

A Photo copy of the representation dated 16.07.2012 is annexed herewith and marked as Annexure-2 to this petition.

5. That it is humbly submitted that the order of this Hon'ble Court has been thrown to the dustbin as till date the same has not been complied with.
6. That it is humbly submitted that the Contemnor/ Opposite Parties have shown their willful disobedience and deliberate disrespect to the order of this Hon'ble Court for which they are liable to be punished for committing contempt of this Hon'ble Court.
7. That the petitioner has not moved before this Hon'ble Court in this matter on any earlier occasion.

It is, therefore, prayed that **Your Lordships** may graciously be pleased to admit this application,

issue show cause notice against the Contemnors/ Opposite Parties and after hearing the parties be pleased to punish the Contemnors/ Opposite Parties suitably for their wilful disobedience and deliberate disrespect to the order dated 06.07.2012 passed by Hon'ble Mr. Justice Navin Sinha in C.W.J.C. No.11449/2012 (Dipesh Kumar Vs The State of Bihar and others).

And/or

Pass such other order or orders as Your Lordships may deem fit and proper on the facts and in the circumstances of this case.

And for this, the petitioner shall ever pray.

AFFIDAVIT

I, Dipesh Kumar, aged about 50 years, son of Jai Prakash Narayan, Assistant Teacher, Upgraded Middle School, Daha, Block-Gamharia, District-Madhepura; do hereby solemnly affirm and state as follows:

1. That I am Petitioner in the instant case and as such am well acquainted with the facts and circumstances of this case.
2. That the contents of this contempt application have been read over by me which I have fully understood and the statements made therein are true to my knowledge and belief.
3. That the Annexures are true/typed copies of their respective originals.

डिपेश कुमार

An 1-7

ISSUED for Certified Copy
Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11449 of 2012

Dipesh Kumar

..... Petitioner/s

Versus

The State Of Bihar & Ors

..... Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra
For the Respondent/s : Mr. Yogendra Pr. Sinha Aag15

CORAM: HONOURABLE MR. JUSTICE NAVIN SINHA
ORAL ORDER

2 06-07-2012

Heard learned counsel for the petitioner and the State.

By order dated 31.1.2012 the petitioner was transferred to Upgraded Middle School, Daha, Gamharia, Madhepura, was relieved and joined immediately. After he had joined, the respondents have cancelled the transfer on 28.2.2012. The only question of law for consideration in the case is after a person has been transferred and joins his place of posting, the order for transfer no more exists. Could the respondents cancel a non-existent order. The matter stands fully covered by the decision in C.W.J.C. No.16215/08 affirmed in L.P.A. No.828/09.

The order is quashed. The application stands allowed.

sd/-
(Navin Sinha, J)

K.C.jha/-

ATTENDED TO BE TRUE PHOTO COPY

11.7.2012
For *John R. gistrar (J)*
Patna High Court
Registered U/S 76 Act 1 of 1975

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Am-2

सेवा में श्रीमान जिला कार्यक्रम प्रशाधिकारी (स्वा
मधेपुरा

विषय - सी० डबल्यू० जे० सी० सं० 11449/2012 (विपेश
कुमार बनाम बिहार सरकार एवं अन्य) में
पारित आदेश दिनांक 6/7/2012 के संदर्भ में

पुनः
16/07/12

आज्ञाया, सविनय कहना है कि श्रीमान के आदेश 19
दिनांक 31/1/2012 के द्वारा मेरा स्थानान्तरण
अ० वि० सुप्रीमांज जम्हरिया से ड० अ० वि० दादा
जम्हरिया किया गया। दिनांक 3/2/2012 को
विरहित होने के बाद मैंने अपना योजयान ड० अ०
वि० दादा जम्हरिया में दिया एवं अपना कर्तव्य
पालन करते रहा। अदालत श्रीमान ने उक्त
स्थानान्तरण आदेश को अपने आदेश दिनांक
28/2/2012 के द्वारा निरस्त कर दिया जिसके
विरुद्ध मैंने माननीय उच्च न्यायालय में उक्त रि
याचिका दायर किया जिसका निष्पादन दिनांक
6/7/2012 को करने हेतु माननीय उच्च न्यायालय
ने श्रीमान के उक्त आदेश दिनांक 28/2/2012 को
निरस्त कर दिया है।

अतः श्रीमान से निवेदन है कि उक्त
आदेश के आलोक में मेरा योजयान ड० अ० वि० दा
जम्हरिया में कराये हुए वेतनादि के भुगतान का
आदेश पारित करने की महती कृपा की जाय।

प्रतिलिपि माननीय उच्च
न्यायालय द्वारा पारित
आदेश दिनांक 6/7/2012
की छायाप्रति।

श्रीमान का निवास गान
विपेश कुमार (सं० शि०
30 नं० विधानम 67)
16-7-012