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23/2/14.

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous judicial jurisdiction)

M.J.C. No. of 2014 (Contempt)

(Arising out of C.W.J.C.NO.15918/2012)

Dhirendra Kumar Yadav & Others

.....Petitioners.

Versus

The State of Bihar & Others

.....Opposite Parties.

Subject :- Contempt matter.

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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous judicial jurisdiction)

M.J.C. No. _____ of 2014 (Contempt)

(Arising out of C.W.J.C.NO.15918/2012)

through
Shashi Prasad
Advocate

In the matter of an application under article 215 of the constitution of India read with section 11 and 12 of the contempt of court Act;

AND

In the matter of ;

1. Dhirendra Kumar Yadav Son of late Maheshwar Prasad Yadav , resident of village +P.O+P.S.-Manikpur , District – Madhepura.
2. Shambhu Thakur son of Sri Yogendra Thakur resident of Mohalla –Laxmipur ,ward no. 11 ,Madhepura ,P.S.- Madhepura, District – Madhepura.
3. Md. Khannuddin Son of Md. Habib resident of Mohalla –Naulokhla , ward no. 01 , Madhepura , P.S.- Madhepura, District – Madhepura.
4. Umesh gupta ,Son of Bhikha Gupta, Resident of Village – Manpur,P.O.-Barrahi Bazar,P.S.and District-Madhepura.
5. Shambhu Prasad Yadav ,Son of Jamun Prasad Yadav, Resident of Village+P.O.+P.S.-Manikpur,District-Madhepura.

.....Petitioners.

Versus

1. The State of Bihar
2. Shri Commissioner and Secretary, Personnel and Administration Reforms Department, Government of Bihar, Patna.
3. Shri Ram Swaroop Singh, Commissioner, Koshi Division , Saharsa.
4. Shri Gopal Mina ,I.A.S., Collector -cum -- District Magistrate ,Madhepura.
5. Shri Pradip Jha , Deputy Collector Nazarat, Madhepura Collectorate ,Madhepura.

.....OppositeParties.

To ,

The Hon'ble Ms. Rekha M . Doshit ,the 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
Petitioners above named ;

Most Respectfully Seweth :-

1. That, this application has been filed with a prayer to initiate a proceeding under the Contempt of Court Act against the opposite parties for their wilful and disobedience of the order dt.23.1.14 passed in C.W.J.C.NO.15918/2012 passed by Hon'ble Mr.Justice Ajay Kumar Tripathi, by which the District Magistrate ,Madhepura has been directed and advised to

expedite such matters or else such kind of applications will keep coming to the High Court seeking for some observation or direction .It is not to say that if a final decision is taken ,more litigation will not arise but at least if a decision if a decision is taken , one part of the dispute will be taken care of.

A photo copy of order dt.23.1.14 is annexed herewith and marked as Annexure-1 to this application.

2. That, the petitioners were initially engaged on daily basis on a class IV posts under Madhepura Collectorate in the year 1988 and onwards. Petitioners were engaged in the year 1990 , 1993 , 1997, 1998 and 1993 respectively.

3. That, the petitioners have been working since their engagement. When their cases for regularization was not considered ,then they moved before this Hon'ble Court in C.W.J.C.NO.13764/ 06 for considering their cases for regularization / appointment against sanctioned and vacant class IV post under Madhepura collectorate. The aforesaid writ application was disposed of with a direction to the State Government to constitute a committee of 3 secretaries to examine the cases in the light of law laid down by the Hon'ble Supreme Court in the case of Secretary , State of Karnataka Vs. Uma Devi.

4. That, accordingly , the committee was constituted and the claim of the petitioners were rejected.

5. That, thereafter the petitioners moved before this

Hon'ble Court against the aforesaid order of rejection by the committee in separate writ petition individually .The aforesaid writ petition were dismissed. The writ petition filed by the petitioner no.3 was referred to a Division Bench by Hon'ble Mr. Justice Navin Sinha as contained in Annexure-2 series to the connected writ application.

6. That, thereafter the petitioners no.1,2,4,and 5 preferred Letters Patent Appeal being L .P .A .No. 86/2010 , 121/2010, 85/2010 and 154/2010 respectively.

7. That, the aforesaid L.P.A.s were heard along with C.W.J.C.No.13802 /09 (Md .Khannuddin Vs The State of Bihar & others) , C.W.J.C.No. 7144/2009 (Nan Lal Prasad & others Vs The State of Bihar & others) and its analogous cases by a Division Bench of this Hon'ble Court and after hearing the parties the aforesaid cases were disposed of and appointed one man committee namely Justice Uday Sinha committee to scrutinize the appointments of the daily wagers in the light of para 53 of the decision of Uma Devi (Supra), as contained in Annexure-3 to the connected writ application.

8. That, thereafter the petitioners filed applications individually before Justice Uday Sinha committee and after hearing the parties , the case of the petitioners were disposed of vide common order dt.29.7.11 as contained in Annexure-4 to the connected writ application. By the aforesaid order , the Collector ,Madhepura was directed to take steps for making permanent appointment in accordance with the rules for appointment.

9. That, in compliance to the order of Justice Uday Sinha one man enquiry committee , the petitioners filed an application dt.22.10.11 before the Collector , Madhepura enclosing a copy of the order passed by Enquiry Committee as contained in Annexure-5 to the connected writ application.

10. That, accordingly a press communique was issued and published in daily news paper inviting application from the eligible candidates for inclusion of their names in the district level panel for appointment against vacant class IV post under Madhepura collectorate and its attached offices as contained in Annexure-6 to the connected writ application.

11. That, in response to the aforesaid press communique , the petitioners filed their applications well within the time . But unfortunately nothing was done.

12. That, thereafter , the petitioners were compelled to move again before this Hon'ble Court in C.W.J.C.No. 15918/2012 for direction to respondents to consider their cases for appointment against vacant class IV post in Madhepura Collectorate .

13. That, aforesaid writ application was heard by Hon'ble Mr.Justice Ajay Kumar Tripathi on 23.1.14 and after hearing the parties ,His Lordships has been pleased to dispose of the aforesaid writ application with observation quoted herein below :-

“ The District Magistrate will be well advised to expedite such matters or else such kind of applications will

keep coming to the High Court seeking for some observation or direction. It is not to say that if a final direction is taken , more litigation will not arise but at least if a decision is taken , one part of the dispute will be taken care of." A copy of the order dt.23.1.14 has all ready been annexed as Annexure-1 to this contempt application.

14. That, thereafter the petitioners filed an application dt.6.3.14 followed with reminder dt.22.5.14 before the Collector ,Madhepura enclosing a copy of the order dt.23.1.14 passed in C. W .J .C. No. 15918/2012. But unfortunately nothing has been done as yet.

A photo copy of application dt.6.3.14 is annexed herewith and marked as Annexure-2 to this application.

15. That, under the facts and circumstances as stated above , it is crystal clear that the opposite parties are not taking the matter seriously in spite of the order passed by this Hon'ble Court and hence the petitioners are compelled to move before this Hon'ble Court by way of this contempt application.

16. That, it is stated that neither the District panel has been prepared nor any thing has been communicated to the petitioners as yet.

17. That, it is submitted since the panel has been finalized for appointment against vacant class IV post under Madhepura collectorate and its attached offices and as such the opposite parties have made themselves liable for initiating a proceeding

under the contempt of Court Act for their wilful and disobedience of order dt.23.1.14 passed by Hon'ble Mr. Justice Ajay Kumar Tripathi in C.W.J.C.No.15918/2012.

18. That the petitioners have no other alternative remedy than to move this Hon'ble Court.

19. That, the petitioners have not moved earlier before this Hon'ble Court for the present relief.

It is, therefore ,prayed that your Lordships may graciously be pleased to admit this application , issue show cause to the opposite parties as to why a proceeding be not initiated against them for non-compliance of the order dt.23.1.14 passed by Hon'ble Mr. Justice Ajay Kumar Tripathi in C.W.J.C.No. 15918/2012 and after hearing the party / parties be further pleased to initiate a contempt proceeding and punish them suitably.

And / Or

Pass such other order/ orders as your Lordships may deem fit and proper.

And for this the petitioners shall ever pray.

Affidavit

I , Shambhu Thakur aged about 45 years ,son of Sri Yogendra Thakur resident of Mohalla --Laxmipur ,ward no. 11 ,Madhepura ,P.S.- Madhepura, District -- Madhepura , do here by solemnly affirm and swear as follows :-

1 .That , I am petitioner no.2 in the instant case and am as such well acquainted with the facts and circumstances of the case

2 .That ,the contents of this application have been read over and explain^{-ed} to me in Hindi and understood the same.

3. That , the annexures are true photo / typed copy of their respective originals .

शंभु ठाकुर

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15918 of 2012

1. Dharendra Kumar Yadav S/O Late Maheshwar Prasad Yadav R/O Vill, P.O. & P.S.-Manikpur, Distt-Madhepura
2. Shambhu Thakur S/O Sri Yogendra Thakur R/O Mohalla-Laxmipur, Ward No.-11, Madhepura, P.S.-Madhepura, Distt-Madhepura
3. Md.Khannuddin S/O Md. Habib R/O Mohalla-Naulokhia, Ward No.1, Madhepura, P.S.-Madhepura, Distt-Madhepura
4. Umesh Gupta S/O Bhikha Gupta R/O Vill-Manpur, P.O.-Bharrahi Bazar, P.S.& Distt-Madhepura
5. Shambhu Prasad Yadav S/O Jamun Prasad Yadav R/O Vill, P.O.& P.S.-Manikpur, Distt-Madhepura

..... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner and Secretary, Personnel & Administrative Reforms Department, Government Of Bihar, Patna
3. The Commissioner, Koshi Division, Saharsa
4. The Collector -Cum-District Magistrate, Madhepura
5. The Deputy Collector, Nazarat, Madhepura Collectorate, Madhepura

..... Respondent/s

Appearance :

For the Petitioner/s : Mr. Shanti Pratap
For the Respondent/s : Mr. Ansul, SC 32

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

6 23-01-2014

Petitioners are hopeful of being included in the panel for regularization on a class IV post. An advertisement has already been issued with regard to appointment by the District Magistrate, Madhepura. But the process initiated sometime in the year 2011 is moving at a snail's pace.

The District Magistrate will be well advised to expedite such matters or else such kind of applications will keep coming to the High Court seeking for some observation or direction. It is not to say that if a final decision is taken, more

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litigation will not arise but at least if a decision is taken, one part of the dispute will be taken care of.

Writ application is disposed of with the above observation.

sl/-
(Ajay Kumar Tripathi, J)

sk

Ajaya
27.01.14

Rakesh Kumar
A.S.C.
27/01/2014
06/99/9V/32

सेवा में

श्री जिलाधिकारी महोदय
मधेपुरा समाहरणालय
मधेपुरा।

विषय :-चतुर्थ वर्गीय पद पर नियुक्ति के संबंध में।

प्रसंग :-माननीय उच्चन्यायालय, पटना द्वारा CWJC No-15918/2012 में पारित

आदेश दि० 23/01/2014 के प्रसंग में।

महाशय

उपर्युक्त विषय एवं प्रसंग के सन्दर्भ में निम्नलिखित तथ्यों के साथ श्री मान् से सादर निवेदन है कि :-

1. यह कि हमलोग मधेपुरा समाहरणालय में दैनिक वेतन के रूप में करिब बीस वर्षों से कार्य करते आ रहे हैं।
2. यह कि हमलोग चतुर्थ वर्गीय पद पर नियुक्ति हेतु सभी अहर्ता एवं योग्यता रखते हैं।
3. यह कि हमलोग माननीय उच्चन्यायालय में एक रिट याचिका तथा CWJC No-15918/2012 दायर किया था जिसका निष्पादन माननीय न्याय मुर्ति श्री अजय कुमार त्रिपाठी के एकल पीठ द्वारा दिनांक - 23/01/2014 को किया गया है। आदेश दिनांक - 23/01/2014 की छाया प्रति श्री मान् के अवलोकनार्थ संलग्न है।
4. यह कि हमलोग बहुत ही गरीब परिवार से आते हैं। सभी परिवार के भरण-पोषण का जिम्मा है।

उपर्युक्त परिस्थितियों के आलोक में श्री मान् से प्रार्थना है कि हम गरीबों की नियुक्ति हेतु सहानुभुति पूर्वक विचार करने कि कृपा कि जाए ताकि हम अपने बाल-बच्चों का भरण-पोषण कर सकें।

इस कार्य के लिए हमलोग श्री मान् का अजीवन आभारी रहेंगे।

अनुलग्नक :-

माननीय उच्चन्यायालय
पटना द्वारा CWJC No-
15918/2012 में पारित
आदेश की छाया प्रति

विश्वासभाजन
(1) श्री २०१२/२०१३
(2) श्री २०१३/२०१४
(3) श्री २०१४/२०१५
3/3/14

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15918 of 2012

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5. Shambhu Prasad Yadav S/O Jamun Prasad Yadav R/O Vill, P.O.& P.S.-Manikpur, Distt-Madhepura

Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner and Secretary Personnel & Administrative Reforms Department, Government Of Bihar, Patna
3. The Commissioner, Koshi Division, Saransa
4. The Collector -Cum-District Magistrate, Madhepura
5. The Deputy Collector, Nazarat, Madhepura Collectorate, Madhepura

Respondent/s

Appearance :

For the Petitioner/

Mr. Bhanti Pratap

For the Respondent/

Mr. Ansul, SC-32

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

6 23-01-2014

Petitioners are hopeful of being included in the panel for regularization on a class IV post. An advertisement has already been issued with regard to appointment by the District Magistrate, Madhepura. But the process initiated sometime in the year 2011 is moving at a snail's pace.

The District Magistrate will be well advised to expedite such matters or else such kind of applications will keep coming to the High Court seeking for some observation or direction. It is not to say that if a final decision is taken, more

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करना होगा। 15 जून परीक्षा का काम जमा लिया जायेगा।

जिला प्रशासन ने तैयार किया 230 अनुसेवकों का पैनल

सहरसा: उच्च न्यायालय के निर्देश पर जिला प्रशासन ने जिले के विभिन्न कार्यालयों में वर्षों से उम्मीदवार प्यून के रूप में काम कर रहे 230 लोगों की सूची तैयार की है। इन लोगों को रिक्ति के आधार पर विभिन्न कार्यालयों में अनुसेवक के पद पर बहाल किया जायेगा। उल्लेखनीय है कि समाहरणालय के विभिन्न कोषागारों के अलावा, सदर अस्पताल, अचल, प्रखंड व अन्य कार्यालयों में उम्मीदवार प्यून को स्थायी करने के बजाय अधिकांश को कार्य से हटा दिया गया था। इन लोगों ने उच्च न्यायालय का दरवाजा खटखटाया। न्यायालय ने जिलाधिकारी को ऐसे लोगों की सूची तैयार कर विभिन्न विभागों में रिक्ति के आधार पर बहाली का निर्देश दिया। परंतु अधिकांश कर्मियों का साक्ष्य कार्यालय में उपलब्ध नहीं था। इस वजह से वर्षों से मामला टाला जाता रहा। न्यायालय के आदेश का अनुपालन नहीं होने पर इन लोगों ने पिछले वर्ष दो बार अनशन भी किया। आंदोलन के दबाव में आकर जिला प्रशासन ने कार्यालय में उपलब्ध साक्ष्य के अलावा उम्मीदवार प्यून के पास योगदान एवं भूगतान संबंधी साक्ष्य को आधार बनाकर पैनल तैयार किया। जिला स्थापना कार्यालय के पत्रांक 609 दिनांक 26.05.2014 के द्वारा तैयार 230 लोगों की बहाली रिक्ति के आधार पर क्रमानुसार अनुसेवक पद पर इनकी बहाली की जायेगी।

...

समाहरणालय, मधेपुरा


(जन शिकायत कोषांग)

पावती रसीद

क्रमांक 5782 दिनांक 6.3.14

1. जन शिकायत क्रमांक 1360
2. आवेदक का नाम एवं पता चारिन्द्र आर्य
का एवं पता, 4/115 गजपुर, समाहरणालय
मधेपुरा

37/3/14
मे
06/3/14


प्राप्तकर्ता का हस्ताक्षर एवं तिथि

समाहरणालय, मधेपुरा

(जन शिकायत कोषांग)

पावती रसीद

क्रमांक 6075 दिनांक 22.5.14

1. जन शिकायत क्रमांक 1911
2. आवेदक का नाम एवं पता चारिन्द्र आर्य
का एवं पता, 4/115 गजपुर, समाहरणालय
मधेपुरा

12/5/14


प्राप्तकर्ता का हस्ताक्षर एवं तिथि

litigation will not arise but at least if a decision is taken, one part of the dispute will be taken care of.

Writ application is disposed of with the above observation.

sk
Ajay Kumar Tripathi, J)

FOR THE JUDGE
Allied
24-01-14
For Joint Registrar
Patna High Court
Patna

Rakesh Kumar
27/1/14
06/1/14

COPYING