

(2019) 08 PAT CK 0031

In the Patna High Court

Case No : Miscellaneous Jurisdiction Case No. 2696 Of 2015, Civil Writ
Jurisdiction Case No. 1926 Of 2014

Babulal Ram

APPELLANT

Vs

Tilka Manjhi Bhagalpur And Ors

RESPONDENT

Date of Decision : 23-08-2019

Acts Referred:

Citation : (2019) 08 PAT CK 0031

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Himanshu Kumar Akela, Anjani Kumar, Rashid Izhar, Dr. Anjani Prasad Singh

Final Decision : Disposed Off

Judgement

1. Heard learned counsel for the petitioner; Mr. Anjani Kumar, learned senior counsel along with Mr. Amit Kumar Jha, learned counsel for the T M Bhagalpur University; Mr. Rashid Izhar, learned counsel for the Munger University and Mr. Anjani Prasad Singh, learned counsel for the opposite party no. 5.
2. Pursuant to order dated 26.07.2019, Mr. Arvind Kumar Sharma, Mr. Rajesh Kumar Tiwari and Mr. Krishna Kumar are also present in Court along with their show cause. Show cause has been filed on behalf of TM Bhagalpur University and Munger University.
3. The reason why the officers were called today has been detailed in the order dated 26.07.2019.
4. Basically, Mr. Arvind Kumar Sharma and Mr. Rajesh Kumar Tiwari have been called as factually incorrect statement has been made in the show cause filed on behalf of the T M Bhagalpur, University which was affirmed by Mr. Arvind Kumar Sharma which, in turn, was based on the statement of facts sent under the signature of Mr. Rajesh Kumar Tiwari.

5. From the pleadings and even from the stand taken before the Court today by the T M Bhagalpur, University and the aforesaid two officers, it is an admitted position that incorrect facts have been brought on record on oath in the present proceeding. Further, Mr. Rajesh Kumar Tiwari cannot be said to be innocent as it was he who was responsible for sending the true and correct statement of facts for being brought on record before the High Court in the present proceeding. Thus, it was his duty to have verified from the records such stand. With regard to Mr. Arvind Kumar Sharma, though strictly he has to take responsibility for having affirmed the affidavit and the Court is not required to go behind what is the practical arrangement between Mr. Arvind Kumar Sharma and the University in preparing/affirming affidavits, the Court has been persuaded to grant indulgence to them and, thus, accepting their unconditional and unqualified apology, they are discharged from the Rule of contempt. The Court only cautions them that such mistake be not repeated in future.

6. At this juncture, Mr. Rajesh Kumar Tiwari, suo motu submitted to the Court that he has been appointed as Assistant Professor in Psychology and wants to concentrate on teaching and thus, he shall be tendering his resignation from the post of Coordinator (Legal) of the T M Bhagalpur University.

7. Be that as it may, it is not for the Court to decide with regard to what steps Mr. Rajesh Kumar Tiwari would take as it is totally his personal decision. The Court has recorded such submission only on the basis of the statement made by Mr. Rajesh Kumar Tiwari to the Court after the Court had granted him indulgence by accepting his apology and withdrawing the Rule of contempt against him.

8. Coming to the Munger University, show cause has been filed on its behalf in which the stand is that Provident Fund amount along with 5% interest has been paid to the petitioner by cheque dated 13.08.2019. It has further been stated that in terms of the observations made by the writ Court in its order dated 24.02.2015 in CWJC No. 1926 of 2014, a three member committee has been constituted to enquire into the allegations against Mr. Krishna Kumar, the then Professor-in-charge, SKR College, Barbigaha, which has to submit a report at the earliest.

9. At this juncture, the Court expressed its surprise on the casual approach of the Munger University in setting up enquiry only on 21.08.2019 and that too asking the Committee to submit its report at the earliest, and further, the allegations levelled against Mr. Krishna Kumar, being also not been brought on record, which raises doubts in the mind of the Court as to whether the intention is serious of the Vice Chancellor of the Munger University to implement and comply with the directions of the Court in its order dated 24.02.2015 passed in CWJC No. 1926 of 2014.

10. To this, learned counsel for the Munger University submitted that the intention is bona fide and firm and that both the enquiry and the proceedings shall be taken to their logical conclusion within a short span of time without

delay. He further drew the attention of the Court to the fact, which has also been stated in the show cause that for dereliction of duty and willful disobedience, Mr. Krishna Kumar, has been divested of the post of Professor-in-charge by order dated 22.08.2019 and Dr. Lalan Prasad Singh, Professor-in-charge, Jamalpur College, Jamalpur has been transferred to SKR College, Barbiga in the capacity of Professor-in-charge of the said college. Learned counsel further took a categorical stand that as per his instructions, within four weeks the enquiry report shall be submitted and a decision shall be taken with regard to Mr. Krishna Kumar, keeping in mind the findings recorded by the Court in its order dated 24.02.2015 passed in CWJC No. 1926 of 2014.

11. From the show cause filed by Mr. Krishna Kumar, it transpired that though the same has been affirmed today, still he has described himself as Professor-in-charge SKR College, Barbiga. The Court is surprised at such description of Mr. Krishna Kumar about himself being Professor-in-charge in view of the office order dated 22.08.2019 being brought on record in the affidavit of Munger University, where it has been stated that he has been removed from the post of Professor-in-charge of SKR College, Barbiga on 22.08.2019 and if he has been removed from the said post, there cannot be any question of him still disclosing his position as Professor-in-charge of the said college even today in the affidavit affirmed by him.

12. Moving to the merits of the matter, the Court finds that he had initially furnished details with regard to the claim of the petitioner on 13.02.2016 in which he had disclosed the remaining arrears to be paid to the petitioner to be Rs. 1,14,175/-.

13. From the records it transpires that Mr. Krishna Kumar, had already forwarded a detailed chart to the University on 10.03.2015. From that, only an amount of Rs. 36,044/- was found payable to the petitioner which also has been paid on 10.03.2016. Thus, Mr. Krishna Kumar, being the Professor-in-charge of SKR College, Barbiga has initially forwarded to the University letter on 10.03.2015 enclosing the entitlement of the petitioner. From the same, the University deduced that Rs. 36,086/-. However, on 13.02.2016, again the Principal wrote to the then TM Bhagalpur University showing the arrears due and payable to the petitioner to be Rs. 1,14,175/-. Besides this, in the show cause filed by Mr. Krishna Kumar today, there is reference of some revision of pay with regard to the petitioner as is discussed in letter dated 19.02.2015 of the TM Bhagalpur University to the Professor-in-charge of the SKR College, Barbiga, i.e., Mr. Krishna Kumar, who on such basis tried to justify the discrepancy. However, on a query of the Court that the first letter to the University sent by him was on 10.03.2015, i.e., after almost three weeks of letter dated 19.02.2015, then how there was discrepancy again in letter dated 10.02.2016, there was no answer forthcoming.

14. However, as the Court feels that finally the petitioner may have got his dues and the officers concerned have expressed their unconditional and unqualified

apology, the Court is inclined to accept such apology and grant them indulgence. However, they are cautioned to be careful that such behaviour is not repeated in future.

15. At this juncture, learned counsel for the petitioner drew the attention of the Court that an amount of almost Rs. 6 lakhs which was due and payable on 1st November, 2014, has been paid to him on 04.08.2016. Thus, he submitted that 5% interest was also required to be paid to him for such delayed period.

16. On this issue, learned counsel for the TM Bhagalpur University fairly submitted that it relates to pure and simple calculation which shall be done and paid to the petitioner within two weeks, along with a calculation chart.

17. In that view of the matter, the application stands disposed off with a direction to the TM Bhagalpur University to ensure that whatever amount of interest is required to be paid for delayed payment, is worked out/calculated and such amount paid to the petitioner, along with calculation chart, within three weeks from today.

18. Before parting, an issue has been pointed out at the bar relating to the persons who affirm affidavit, especially in contempt matters, on behalf of any Institution, in the present case, it being the University. It was submitted that junior officers affirm affidavit which leads to cases where responsibility cannot be fixed as in the administrative chain, the statement of facts/ affidavit may have passed through many officers/tables before finally being brought on record by way of affidavit. Thus, it was suggested that at least the Registrar of the University concerned, who under the statute is also otherwise accountable and responsible for pursuing Court matters, be asked to affirm such affidavit.

19. The Court finds the issue to be relevant. Thus, it is directed that if on behalf of an Institution, especially the University, any affidavit is filed in a contempt case, to ensure that full responsibility is taken, same be affirmed by the Registrar of the University. The Court is conscious that the Registrar may be overburdened, but in view of the fact that now discretion is available to the officers to get the affidavit affirmed at the headquarters where they are based, the Court does not find that it would cause any inconvenience if the affidavits are affirmed by the Registrar at his headquarters and sent to the learned counsel in the High Court.

20. The order be circulated to all the Registrars of the Universities of Bihar for compliance by the Registry forthwith.