

(2008) 07 PAT CK 0194
In the Patna High Court
Case No : MJC No. 126 of 2005

Dewashish Ghosh and Another	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 08-07-2008

Acts Referred:

Citation : (2009) 1 PLJR 156

Hon'ble Judges : R.M. Lodha, C.J; Kishore K. Mandal, J

Bench : Division Bench

Advocate : Prafull Chandra Jha, for the Appellant; Alok Kumar, for the Respondent

Judgement

1. The contempt petition alleges non-compliance of the order dated 8th September, 2003 passed in a group of writ petitions. The relevant portion of that order reads thus:- "Keeping in view the facts and the legal propositions, as noticed above, in my opinion, the cases of the petitioners of all the categories, enumerated above, should be considered equitably in view of their prolonged continuance in services and, therefore, it would be most appropriate, in the given facts and circumstances of the cases, to invoke equity in favour of the petitioners to save even invalid appointment and the action of the authorities are held to be highly arbitrary, unreasonable and without jurisdiction.

In the result, all these writ applications are allowed, orders impugned are set aside and the petitioners are directed to be reinstated. However, the petitioners will not be entitled for their salary/remuneration for the period they have not actually worked."

That the aforesaid order has been carried in a group of appeals being LPA No. 946 of 2003; Reported in The State of Bihar and Others Vs. Purendra Sulan Kit and Others etc. etc., , is not in dispute. The Division Bench vide its order dated 26th June, 2006 disposed of this group of appeals by the following order:- All the Letters Patent Appeals whether preferred by the State or by affected

employees and all the writ petitions preferred by the affected employees are hereby disposed of by this common judgment and order with a direction to the authorities of the Health Department, Government of Bihar to reconsider the cases of all the affected employees with a view to find out on the basis of relevant facts and law as settled by the Constitution Bench in the case of Secretary, State of Karnataka vs. Uma Devi (supra) as to which of such affected employees are fit for regularization in terms of that judgment, particularly in terms of paragraph 44 of the judgment. Such exercise should be completed within a period of six months from today. If for any good reason, the time period is required to be extended then the respondent-State must file an application for that purpose and seek extension from this court. Till the process is completed, the State of Bihar and its authorities shall maintain status quo in respect of services of the affected employees as existing on date. The status quo shall get revised by the orders that may be passed by the authorities in respect of affected employees as a result of the exercise to be undertaken by them and their final decision in the light of this judgment and order. Before parting with this judgment and order, it is considered relevant to observe that recently a writ petition bearing CWJC No. 3349 of 2000 (Yogendra Singh & Ors. vs. The State of Bihar & Ors.) was disposed of by judgment dated 9.5.2008 rendered by one of us, Shiva Kirti Singh, J. in which reliance was placed upon the aforesaid Constitution Bench judgment of the Supreme Court in the case of Reported in 2006(2) PLJR (SC)363 Secretary, State of Karnataka vs. Uma Devi for directing the State Government to consider the cases of petitioners of that case for regularization as a one time measure, if their cases meet the requirements laid down in the aforesaid judgment. As observed in that judgment, here also it is clarified that the authorities of Health Department, Government of Bihar while considering the cases of affected employees in these cases, may consider and take decision as per law in respect of similarly situated other employees of the Department, if any, and for that category of similar situated employees, the Department may issue public notice etc. if it is so advised. But they must be conscious of the judgment of the Apex Court, as noticed above, that the exercise of regularization is only a one time measure for the whole Department and no such further exercise will be permissible after the one time measure is resorted to and completed within a reasonable period. Thereafter, the vacancies must be filled up as per requirement of the Department in regular manner as per direction of the Apex Court."

2. The order of the Single Judge having merged into the order of the Division Bench, the question of any contempt does not arise. Obviously, the State shall have to abide by the order of the Division Bench, if not challenged in the Supreme Court.

3. Be that as it may, nothing further needs to be done in this contempt petition. MJC is disposed of accordingly.