

(2015) 03 PAT CK 0052
In the Patna High Court
Case No : CWJC No. 14940 of 2006

Lakshmi Prasad Yadav and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-03-2015

Acts Referred:

Citation : (2015) 2 PLJR 528

Hon'ble Judges : Birendra Prasad Verma, J

Bench : Single Bench

Advocate : Lalan Kumar Singh, for the Appellant

Judgement

Birendra Prasad Verma, J.

1. Heard the parties. When this matter was taken up for consideration on 19.12.2014 it transpired that though the writ petition was filed as far back as on 4.12.2006, but counter affidavit on behalf of the respondents have not been filed despite passage of more than eight years since the date of filing of the writ petition. In the aforesaid background, by order dated 19.12.2014, on the request of the learned State Counsel, the matter was adjourned for four weeks enabling him to obtain complete instructions and file a comprehensive counter affidavit. By the aforesaid order dated 19.12.2014 itself, the Chief Secretary, Government of Bihar, Old Secretariat, Patna was called upon to take lead for getting the Bihar State Litigation Policy, 2011 implemented in its letter and spirit. The relevant parts of the order dated 19.12.2014, for ready reference, is reproduced hereinbelow:--

"Though, this writ petition was filed as far back as on 4.12.2006, yet, despite passage of more than eight years, the counter affidavit has not been filed on behalf of the respondents which has unnecessarily delayed the disposal of the present writ petition. This is really an unfortunate and shocking state of affairs for the State Government. The actions of the respondents are in the teeth of the provisions of the Bihar State Litigation Policy, 2011.

It appears that the State authorities have simply forgotten the aforesaid Bihar State Litigation Policy, 2011, as a result of which large number of old litigations are still pending before this Court as also the Subordinate Courts across the State. It is a high time that the Chief Secretary, Government of Bihar should rise to the occasion and should take lead for getting the aforesaid Bihar State Litigation Policy, 2011 implemented in its letter and spirit.

.....

Let a copy of this order be separately forwarded to the Chief Secretary, Government of Bihar, Old Secretariat, Patna for taking an appropriate further action with respect to implementation of the Bihar State Litigation Policy, 2011."

2. Unfortunately, despite indulgence granted by this Court by the aforesaid order dated 19.12.2014; counter affidavit was not filed on behalf of the respondents within the time prescribed. In fact, counter affidavit was filed on 28.1.2015 i.e. after expiry of the period fixed by this Court. On account of non-compliance of the aforesaid order dated 19.12.2014 within the time prescribed by this Court, the respondent No. 2 was obliged to remain physically present before this Court on the next date fixed. When this matter has been taken up today, the respondent No. 2 is not physically present. This Court further finds that in the counter affidavit filed belatedly on behalf of the respondent Nos. 2 to 5 there is no whisper at all about the steps taken by the Chief Secretary and other functionaries of the State Government with respect to implementation of Bihar State Litigation Policy, 2011.

3. Before proceeding further, in view of non-compliance of the order dated 19.12.2014 in its letter and spirit, it would be relevant to mention here that the State Government came with a litigation policy in the year 2011 itself which is known as Bihar State Litigation Policy, 2011 (in short, "Litigation Policy"). In the aforesaid Litigation Policy, the procedures and modalities have been laid down to reduce the burden of litigations in different courts including the High Court and the Hon'ble Supreme Court. As per Clause 1.5 of the aforesaid Litigation Policy, it is mandatory for all the Government, State Public Sector Undertakings and Statutory Body Personnel, who directly or indirectly are associated with litigation, to follow the provisions of the aforesaid Litigation Policy. As per Clause 2.1, Nodal Officers are required to be appointed by the Heads of the Departments for regular monitoring and effective management of Government litigation pending in the Supreme Court, High Courts and Subordinate Courts including Tribunals. As per Clause 2.4(a), State Level Empowered Committee under the Chairmanship of Chief Secretary of the State is required to be constituted to streamline the litigation and grievance redressal system. The aforesaid Committee is further required to take policy decisions which are required to be implemented by different Departments for implementation of the aforesaid Litigation Policy. This Committee is also required to identify the major causes of litigation and to recommend suitable measures to minimize/reduce litigation. Under the said Clause 2.4(a), the Secretary, Department of Law shall be the ex-

officio Member Secretary of the State Level Empowered Committee. As per Clause 2.4(b), Department Level Empowered Committed under the Chairmanship of Principal Secretary/Secretary of the Department is required to be constituted to monitor and review all litigations concerning the Department every month. As per Clause 4.A(1) of the Litigation Policy, all the Departments of the State Government are obliged to set up Grievance Redressal Committees in order to pre-empt a large number of avoidable litigation before different courts including this Court.

4. In view of the aforesaid objects and mandates of the aforesaid Litigation Policy, this Court by order dated 19.12.2014, which have been reproduced above, had called upon the Chief Secretary, Government of Bihar, Patna to take lead for getting the aforesaid Litigation Policy implemented in its letter and spirit.

5. Unfortunately, in the belated counter affidavit filed on behalf of the respondent Nos. 2 to 5, there is no averment at all about the implementation of the aforesaid Litigation Policy. This Court further finds that this is not a solitary matter wherein steps were not taken and counter affidavit was not filed as per the mandate of aforesaid Litigation Policy. There are a large number of litigations pending before this court concerning different Departments of the Government, wherein it is found that counter affidavits are not being filed within the time as a result of which the matters are not being disposed of within a reasonable period of time. Even avoidable litigations remain pending for years together for want of counter affidavits on behalf of the respondents.

6. In the aforesaid factual matrix, let detailed separate counter affidavits duly sworn by the Chief Secretary, Government of Bihar, Old Secretariat, Patna as also the Secretary, Department of Law, Government of Bihar, Patna themselves be filed within a period of four weeks stating therein the steps taken by them for implementation of Bihar State Litigation Policy, 2011. The aforesaid two High functionaries of the State Government shall also be obliged to answer all the issues raised in the present order and steps taken by them. They shall indicate in their respective counter affidavits as to when State Level Empowered Committee was constituted and whether its meetings are held regularly or not. They shall be also obliged to indicate in their counter affidavits about the functioning of Department Level Empowered Committed of different Departments of the Government and District Level Empowered Committee in different districts. They shall further be obliged to indicate that if those Committees have not been constituted for any reason and/or, are not functional, then what corrective measures are being taken by them or by the State Government.

7. Learned State Counsel shall communicate this order to the Chief Secretary, Government of Bihar, Patna as also the Secretary, Department of Law, Government of Bihar, Patna, so that separate counter affidavits on their behalf duly sworn by them personally are filed within the aforesaid period of four weeks, as indicated above. Non-compliance of the present order shall be viewed seriously.

8. Let a copy of this order be forwarded separately to the Chief Secretary, Government of Bihar, Patna as also the Secretary, Department of Law, Government of Bihar, Patna. List this matter under the same heading on 8th April, 2015 at the top of the list, subject to part heard.