
(2004) 03 PAT CK 0060
In the Patna High Court
Case No : CWJC No. 11702 of 2003

Lalan Prasad Rai and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 23-03-2004

Acts Referred:

Citation : (2004) 2 BLJR 877 : (2004) 2 PLJR 310

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Judgement

R.S. Garg, J.—Heard learned counsel for the parties.

2. These seven petitioners have a common complaint; according to them, some of their juniors probably blue-eyed-baby of the District Superintendent of Education, Vaishali at Hajipur have already been promoted but the petitioners probably the step children of the said Officer have not been promoted. Not only that, even their representations are not being taken up for consideration because for the reasons best known to the said District Superintendent of Education, he does not find time to take up the matters of these persons.

3. It appears that every Officer in this State is required to be informed by the Court by a writ that he has been appointed and posted at a particular place to work and not to shirk the work. This Court is infested with thousands of such petitions where because of the non-action or inaction on the part of the Government Officers, be he a Secretary of the Department or a Circle Officer, a Civil Surgeon or Superintendent of Education or Excise Officer or whatever he is, a man is required to come to the High Court, seek a direction against those Officers that within a time frame they must pass orders. The plight of such person does not end there only. The real fight starts after a direction is issued by the Court. Within the fixed time the officer would not pass an order probably feeling protected being a Government servant. Disgusted and frustrated the petitioner again comes to the High Court in its jurisdiction under the provisions of contempt of Courts Act. When notices are issued, the Government Counsel would

pray for some time for filing an affidavit, thereafter an absurd and useless affidavit would be filed, thereafter an absurd order would follow rejecting the claim of such a person. The matter will have to be reagitated again in the writ jurisdiction and the Court finding that order being absurd sets aside it with the direction to the authority to reconsider the whole matter. By this time the first officer is changed, second officer does not know anything about the subject. He would take up the matter afresh, would not pass the order by that time and again a contempt application. Six to ten rounds in the lifetime of an employee in the corridors of this Court are the routine of the life and . unfortunately he still stands in the Square No. 1 because the Court cannot pass an order of promotion or confirmation and the Officers are not ready and willing to pass the orders. Despite award of punishment to number of Officers, the Officers have not come out of their slumber or hibernation. This Court had gone to the extent of saying that the hard skin of the officers of this State has now become bullet proof and they are affected by nothing and most unfortunately these observations made by this Court, in fact, do not make any effect on the said skin.

4. What should we do? I pose a question to myself as a petitioner, that should the petitioner run from pillar to post, grease the hands of the higher authorities, offer them illegal gratifications, offer them monetary benefits so that they may pass orders right in time or should he take up the law in his own hands, pounce upon the officer and remind him that he may be an officer but he is working under the rule of law. If he takes law in his own hands then that would again be a worst situation. In either of the case, to obtain the fair and legal dues, one will have to take advantage or assistance of illegal means. The success of a person is not in getting his dues. The real success and moral success is that he gets it in accordance with law, without entering into any illegal acts or without entering into any nefarious activities.

5. I am writing all this in this matter because as a Judge of this Court I am concerned about the Court, Court work and the pendency. as a Judge I am also concerned about the work of those officers, who have been considered competent by the State Government but who are in fact absolutely incompetent, useless, dead wood and nincompoop. When an Officer is posted by the State Government then either he is posted because he is competent or because he is a blue-eyed-baby of the politicians or the higher ups. The merits in this State do not count. A person with merits is given only one way and that is to knock the doors of the High Court, spend the youth in the corridors of the High Court and some day or the other die with a legacy in favour of his successor to make an application to the High Court for their substitution in his place.

6. What the hell is going on in this State? Why the State Government should not issue orders to its Officers that if they are appointed to do the work then they are obliged to work? Why, why the Officers should not understand that; they are public officers-cum-public servants and a public servant is the servant of the public and not the boss. They must understand and realise that the salary paid to

them comes from the public exchequer which recovers money from the general public so that these public servants, who have now become public bosses are given their dues. If the Officers feel that they are under paid then they must resign from their services and find some other and better options for earning. Though they are in services but at the same time they shout that they are not paid properly. Who asked them to join, who compelled them to join the services and why they are continuing in the services. If they feel that they are more meritorious and can earn better then they must walk out of their offices, vacate the seat for those who are ready and willing to work. The Government servants are not in a reserved forests or a sanctuary for the wild animals, who do not wish to do anything but are dependent upon the commissions/foodstuff provided by the State Government. Would somebody look into all these : would somebody take care of the public of this State: would somebody rise to the occasion and take care of class III and class IV employees of this state. I am sorry to record that despite repeated orders of this Court the State is not ready to mend its practice and procedure. It appears to be a habit of the State Government not to observe the orders or not to do the things right in time. What are they awaiting from the High Court - an order wherein the entire Secretariat should be booked or every Class I Officer should be booked? If they are awaiting that than the doom"s days are not far off.

7. This petition is disposed of with a direction to the Respondent No. 4, District Superintendent of Education, Vaishali, Hajipur to take up the matters of the petitioners immediately and pass speaking orders into the entitlements of the petitioners within a period of four weeks after receiving a copy of this order. He is forewarned that if he passes non-speaking order or an absurd order or an order without considering the grounds raised by the petitioners or if he does not pass an order within the period aforesaid then he would be held liable under the provisions of Contempt of Court"s Act.