

(2019) 09 PAT CK 0120

In the Patna High Court

Case No : Miscellaneous Jurisdiction Case No. 4523 Of 2018, Civil Writ
Jurisdiction Case No. 5116 Of 2003

Manikant Pathak

APPELLANT

Vs

Sarvdeo Narayan Jha And Ors

RESPONDENT

Date of Decision : 18-09-2019

Acts Referred:

Citation : (2019) 09 PAT CK 0120

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Sunil Kumar Karn, Durganand Jha, Gyanand Roy

Final Decision : Disposed Off

Judgement

1. Heard learned counsel for the petitioner; learned counsel for the KSD Sanskrit University (hereinafter referred to as the 'University') and learned counsel for the opposite parties no. 2 and 3.

2. The petitioner has moved the Court alleging willful and deliberate violation of the order dated 03.09.2010 passed in CWJC No. 5116 of 2003. The said writ petition was disposed off in the following terms:

"It is however made clear that a decision of the Governing Body on the said communication of the University in terms of the order of this Court dated 12.8.2010 should be taken without being influenced by disposal of this writ application which as noted above has been necessitated only on account of the order of the Chancellor holding enquiry in the matter of payment of salary of the petitioner.

With the aforesaid observation and direction this writ application is disposed of.

Let a copy of this order be given to Mr. Gyanand Roy, learned counsel appearing on behalf of the University for its communication to the office of Chancellor as also to the Governing Body of the College."

3. Clearly, the order required that the Governing Body of the college would take a decision on the communication made by the University with regard to the petitioner. In the show cause filed today on behalf of the College, copy of proceeding of the Governing body dated 18.11.2010 has been brought on record in which proposal no. 2 deals with the issue and it has been held that the initial recommendation of the petitioner by the then Bihar College Service Commission was itself illegal for the reason that in the advertisement itself, the minimum marks required was 55% whereas the petitioner possessed only 48% and, thus, his case has been rejected.

4. Learned counsel for the petitioner submitted that he may be given time to file rejoinder.

5. The Court finds that such would only be a wastage of time for the reason that this Court sitting in contempt jurisdiction has to only ensure that the order of which contempt is alleged is complied with. At the cost of repetition, the order only required the Governing Body to take a decision without being influenced by the disposal of the writ petition. Once such a decision has been taken by the Governing Body, this Court would not go into its merit as it is a fresh cause of action for which any person aggrieved has to move before the appropriate forum, in accordance with law, for such redressal of such grievance.

6. In view thereof, nothing further remains and the application stands disposed off with liberty to the petitioner to move before the appropriate forum, in accordance with law, with regard to the decision taken in his case by the Governing Body of the College in its meeting held on 18.11.2010.