

(2018) 10 PAT CK 0019

In the Patna High Court

Case No : Miscellaneous Jurisdiction Case No.1487 of 2018 In Civil Writ Jurisdiction Case No.15871 of 2017

Shiv Prakash Rai @APPELLANT@Hash State of Bihar

Date of Decision : 09-10-2018

Acts Referred:

Bihar School Examination Board Act, 1952 — Section 4, 4(4)

Citation : (2018) 10 PAT CK 0019

Hon'ble Judges : Mukesh R. Shah, CJ; Ashutosh Kumar, J

Bench : Division Bench

Advocate : Dinu Kumar, Arvind Kumar Sharma, Lalit Kishore, Bishwa Bibhuti Kumar Singh, A.R. Pandey, Manish Kumar

Final Decision : Disposed off

Judgement

1. Present application is preferred by the applicant herein-original writ-petitioner to initiate appropriate contempt proceedings against the respondents

for non-compliance of the earlier order passed by the Division Bench of this Court dated 14th March, 2018 in C.W.J.C. No. 15871 of 2017.

2. A counter is filed on behalf of the respondents to the show-cause in which it is stated that one Shri Anand Kishor, who was earlier holding the

charge of the Chairman of the Bihar School Examination Board, has been appointed on regular basis and for which the first notification was issued on

28th August, 2018 and further notification has been issued on 15th September, 2018. It is submitted that now the said Shri Anand Kishor is appointed

as Chairman of the Board on regular basis.

2.1. Shri Dinu Kumar, learned counsel appearing on behalf of the applicant has submitted that the appointment of the said Shri Anand Kishor as a

Chairman of the Board for a period of three years with effect from 25.09.2017 cannot be said to be in accordance with Section 4 of the Bihar School

Examination Board Act, 1952.

It is the case on behalf of the applicant that the Chairman of the Board as per sub-section (4) of Section 4 of the Bihar School Examination Board

Act, 1952 is required to be appointed on regular basis for a period of three years from the date of publication of his name in the official Gazette and

shall include any further period which may elapse between the expiration of the said three years and the date of the first meeting of the next

succeeding Board.

It is submitted that in the subsequent notification dated 15.09.2018 it is stated that his appointment as a Chairman on regular basis is for a period of

three years from 25.09.2017 or till the further order is passed by the State Government. It is submitted that therefore, his appointment cannot be said

to be in accordance with law.

3. Shri Lalit Kishore, learned Advocate General appearing on behalf of the State has stated at the Bar that in the notification dated 15th September,

2018 the word-â??vFkok jkT; ljdkj ds vxys vkns'k rd ds fy, izHkkoh gksxkâ? should be deleted and the appointment of the said Anand Kishor may be

considered for a period of three years from 25.09.2017. He has stated at the Bar that a corrigendum to the notification dated 15th September, 2018

shall be issued by the State within a period of 10 days from today.

Still, the question would remain whether the period for which the aforesaid Shri Anand Kishor was holding the charge of the Chairman of the Board

can be considered while counting his tenure for three years or his three years tenure should be considered from the date of issuance of the notification

is required to be considered. However, that has nothing to do with the eligibility of Shri Anand Kishor as Chairman of the Board. The aforesaid

question is kept open but as Shri Anand Kishor is appointed as a Chairman of the Board on regular basis, we close the present proceedings so far as

the contempt proceedings are concerned with the above observations and directions.

4. The contempt application stands disposed of accordingly.