

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.28 of 2022**  
**In**  
**Civil Writ Jurisdiction Case No.284 of 2020**

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Jai Prakash Mishra

... .. Petitioner/s

Versus

The State of Bihar and Others

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Rajiv Ranjan, Advocate  
Dr. Satish Chandra Mishra, Advocate  
For the Opposite Party/s : Mr. Lalit Kishore, A.G.  
Smt. Kumari Amrita, GP 3

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**ORAL ORDER**

6      21-03-2022                      Heard learned counsel for the parties.

Learned Advocate General today on instruction submitted that Joint Secretary, Law Department, Government of Bihar was not authorized to give an undertaking for disposal of main petition in respect of withdrawal of the impugned action of the State Government therein. The Author of the impugned notification/order/memo in the original petition is in the name of Joint Secretary who has been authorized to issue notification with reference to Article 166 of the Constitution read with the Rules of business of the State of Bihar.

During pendency of the present M.J.C., the State has filed review petition after lapse of time limit stipulated in the order dated 21.12.2021 and such review petition is not yet listed. No efforts have been made to list review petition on behalf of the State/Office of the



Advocate General.

The learned Advocate General on instruction submitted that show cause notice has been issued to the Joint Secretary in respect of making submission on 21.12.2021 in C.W.J.C. No. 284 of 2020. Irrespective of any development during intervening period from 21.12.2021 to this day, the State Government is committing contempt in not executing the order dated 21.12.2021. Even assuming that the order dated 21.12.2021 is recalled in the review petition still the intervening period from 21.12.2021 with reference to stipulated time the contempt is being committed. In this regard why the charges shall not be framed against the Secretary and Joint Secretary, Law Department, Government of Bihar since the file is pending as on today in the office of the Law Department.

The Secretary and Joint Secretary, Law Department, Government of Bihar shall be present in the Court to face contempt petition.

It is to be noted that disobedience to orders of this Court dated 21.12.2021 amounts to manifestly a contempt. An undertaking given to a Court if disobeyed is contempt. Halsbury states as under :

*“The Breach of an undertaking given to the Court on the faith of which the Court sanctions a particular course of action or inaction is misconduct amounting to contempt. So also is disobedience of an injunction order of Court.”*

The aforesaid material has been taken into consideration by



this Court in the case of *Banerjee v. Kuchwar Lime and Stone Co. Ltd.*, AIR 1938 Pat 95.

Time and again, Courts have held that order of Court, valid or irregular, it should be obeyed if contempt action is to be averted. So long as there is an order of the Court which requires compliance not only by parties but even third parties were not parties to the proceeding but have knowledge of the same they should be liable for contempt for disobedience of such order or obstructing execution of the same whether the order is valid or irregular unless order is stayed by a competent Court till it is stayed it has to be obeyed.

Re-list this case on 31.03.2022.

**(P. B. Bajanthri, J)**

GAURAV S./-

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