

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38240 of 2016

Arising Out of PS.Case No. -270 Year- 2016 Thana -KOTWALI District- PATNA

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1. Srinivas Chandra Tiwary, son of Sri Bharat Prasad Tiwary, resident of Mohalla- House No.-E 2/8, 6D, Sadhanapuri, Gardanibagh, P.S.- Gardanibagh, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Vigilance, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Advocate
Mrs. Babita Kumari, Shashank Shekhar

For the Opposite Party/s : Mr. Ajay Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 15-11-2016 Heard Sri Ajay Kumar Thakur, the learned or counsel for the petitioner, and Sri Ajay Mishra, the learned Additional Public Prosecutor.

The petitioner seeks bail in Spl. Case No. 32 of 2016 arising out of Kotwali P.S. case No. 270 of 2016 under Section 420, 465, 467, 468, 471, 188, 201,212/ 120B of the Indian Penal Code and under Section 8, 9, 13(i) (e) read with Section 13(2) of the Prevention of Corruption Act.

The informant, Director, Secondary Education, Government of Bihar, Patna made allegation that through unfair means some students of Bishundeo Rai College, Kiratpur, Rajaram, Vaishali at Hajipur got top rank in the stream of Science

and Arts in the Intermediate examination by making manipulation and interpolation in their copies.

The learned counsel for the petitioner submits that petitioner was Secretary of Bihar School Examination Board in the year 2015 and on 07.09.2015 he was transferred from the post of Secretary, Bihar School Examination Board to Education Department, Government of Bihar. It is further submitted that petitioner is not named in the FIR. During the course of investigation, two allegations are made against the petitioner. Firstly, the petitioner is alleged to have issued appointment letter to one Anil Kumar as P. A. to Sri Lalkeshwar Prasad Singh, the Chairman, Bihar School Examination Board. Anil Kumar was Niyojit teacher and he was not eligible for the post of P.A. Second allegation is that the petitioner did not take actions against Bishundeo Rai college whereas there was reporting that in the examination held in the year 2015 complaints were received that the students of that college used unfair means in the examination. Sri Ajay Kumar Thakur, the learned counsel for the petitioner, submits that Anil Kumar, a Niyojit teacher, was appointed as P.A. to the Chairman of the Board by the Chairman, Sri Lalkeshwar Prasad Singh. The petitioner simply issued letter of appointment in pursuance of order passed by the Chairman, Bihar School



Examination Board and there is no fault on the part of the Secretary in issuing the appointment letter to Anil Kumar. It is submitted that the report of using unfair means by the students of the college was reported to the Kadachar Samiti of Bihar School Examination Board. The Kadachar Samiti recommended to take certain actions and publication of result but thereafter the petitioner did not publish the result and by the order of Chairman the matter was sent to Advocate General, Bihar for opinion. The opinion of Principal Additional Advocate General was obtained and in pursuance thereafter the Board took actions. There is nothing on record to show that petitioner, in any way, did not take actions in violation of the order of the Chairman or the Kadachar Samiti and without any substantive facts and materials the petitioner has been made accused in the case.

Sri Ajay Kumar Mishra, the learned Additional Public Prosecutor, could not be able to show that petitioner is responsible for appointment of Anil Kumar. It is admitted that the order of appointment was passed by the Chairman, Bihar School Examination Board, and in pursuance thereof the petitioner, being Secretary of the Board, is duty bound to issue orders to Anil Kumar. Sri Mishra could not be able to show any documents in relation to non compliance of the order of Kadachar Samiti or the

order of Board by the petitioner with regard to publication of results of the students of college in the year 2015.

Considering the facts aforesaid, I find that the petitioner deserves bail. Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance-1st, Patna Spl. case No. 32 of 2016, arising out of Kotwali P.S. Case No. 270 of 2016.

(Prabhat Kumar Jha, J)

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