

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.737 of 2013

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1. Nand Kumar Jha Son Of Sri Balakant Jha Resident Of Mohalla - Khajpura, Patna
14, Police Station - Hawaii Adda, District - Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Information Commissioner, State Information Commission, Suchana Bhawan, Bailey Road, Patna
3. The State Information Commission Through Law Officer-Cum-Registrar (Judicial), Suchana Bhawan, Bailey Road, Patna
4. The District Education Officer, Bhojpur At Ara
5. The District Treasury Officer, Bhojpur At Ara
6. The Public Information Officer-Cum-Incharge Officer, District Teachers Engagement, 2008, Bhojpur At Ara
7. Anirudh Kumar Mishra Son Of Name Not Known To The Petitioner Resident Of Village - Pachrukhiya, Police Station - Piro, District - Bhojpur At Ara

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sita Ram Sahi,
Mr. Ranjan Kumar Singh, Advocates.
For the State : Mr. Madanjeet Kumar, AC to SC 22
For Respondent nos. 2 and 3: Mr. Lalit Kishore, Sr. Advocate.
Mr.s Binita Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 22-02-2016

Heard the parties.

2. This case was adjourned on different occasions giving an opportunity to the State to file supplementary counter affidavit to explain as to whether the office of the Public Information-cum-In-charge District Teachers Employment, Bhojpur, Ara is separate and distinct to the office of the Teachers Appellate Tribunal. This Court passed the order datede 12.10.2015

recording the submission of the petitioner that he has been inflicted punishment of Rs.25,000/- on account of mistaken identification.

3. In the present writ petition, petitioner is challenging the the order dated 25.2.2012 which was communicated to him under Memo No.11826 dated 7.2.2012 issued under the signature of Law Officer-cum-Registrar (Judicial), State Information Commission by which petitioner has been imposed cost of Rs.25,000/- on account of non-furnishing information to one Anirudh Kumar Mishra and directed the District Treasury Officer, Bhojpur at Ara to deduct Rs.2,000/- per month for 12 months and Rs.1,000/- in the last 13 months from the salary of the petitioner and also made a prayer for quashing the order dated 23.7.2012 which was communicated to the petitioner vide Memo No.3774 dated 25.7.2012 by which review application filed by the petitioner has been rejected and further prayer has been made that he should be returned the amount of Rs.10,000/- which he has deposited in pursuance of the direction of the Bihar State Chief Information Commissioner.

4. Brief facts of the case is that one Anirudh Kumar Mishra sought an information under Right to Information Act from the Public Information Officer-cum- Incharge District Teacher



Employment, Arrah, 2008 vide his application dated 25.1.2011. As said Anirudh Kumar Mishra was not supplied the required information he preferred Second Appeal before the State Information Commissioner which was numbered as Case No.48008 of 2011-12. The order sheet maintained by State Information Commissioner shows, the Commission vide order dated 25.5.2011 directed to supply complete information to Anirudh Kumar Mishra within 30 days. Even if Anirudh Kumar Mishra is not satisfied, he will be at liberty to raise objection within 15 days. The order sheet dated 11.10.2011 shows that Anirudh Kumar Mishra laid claim, the Commission issued notice to Public Information Officer, giving liberty if so advised, he may place his case and fixed the fresh date 19.12.2011. The Chief Commissioner vide order dated 19.12.2011 directed to furnish information to Anirudh Kumar Mishra and also file show cause, why he should not be punished under Section 20(1) of the Right to Information Act for delay supply of information. The next date of case was fixed on 25.1.2012. Order dated 25.1.2012 indicates that no information was supplied nor any show cause filed, in term of Section 20(1) of the Right to Information Act awarded the punishment of fine of Rs.25,000/-. In the order it has been recorded that Public



Information Officer, District Teacher Employment Appellate Authority was present and directed the Treasury Officer to deduct Rs.2,000/- for every 12 month and Rs.1,000/- will be deducted from his salary in the last 13th month. It appears that a review application was filed by the present petitioner vide order dated 27.6.2012 notices were issued and the case was fixed on 23.7.2012 at 1.30 P.M. Applicant was present but Public Information Officer (petitioner) was absent, the review application was dismissed.

5. Here is the question, upon whom the penalty can be imposed. It can only be imposed upon a person from whom the information has been sought. It appears from the record that information was sought from the office of the Public Information Officer-cum-Incharge District Teacher Employment, Ara, 2008 who had not supplied the information, on that account appeal was filed that led to imposition of penalty. As per claim of the petitioner he was not posted as Public Information-cum-Incharge District Teacher Employment, Ara as the Area Education Officer is the Public Information Officer and whose appellate authority is District Education Officer whereas the petitioner was posted as Public Information Officer of Teacher Appellate Tribunal whose appellate authority is Member Appellate Tribunal. Both offices



are two different and distinct. A person who is holding the office of the Public Information Officer-cum-Incharge District Employment, Arrah, 2008 cannot be said to be the same person who is also holding post of Public Information Officer, Teachers Appellate Tribunal Arrah. The petitioner has been imposed penalty of Rs.25,000/- on account of mistaken identification.

6. This Court repeatedly asked the State counsel to explain the position but the State failed to file any affidavit to explain as to whether the person who is holding the office as Public Information Officer, District Teacher Appellate Tribunal is the same as that of Public Information Officer-cum-Incharge District Teacher Employment, Arrah, 2008 and order of recovery has been passed from the person who is not liable for not giving proper information. Liability cannot be attached upon a person who was not required to give any information.

7. It appears that proper fact was not brought before the Chief Information Commissioner as it appears from the record that both offices are separate, different and distinct offices. The punishment can be imposed only on the person who is holding the post of Public Information Officer-cum-Incharge District Teacher Employment, Arrah, 2008.

8. In such view of the matter, this Court finds force in the

argument of the petitioner. This Court holds that petitioner is not liable to pay the amount of Rs.25,000/-. Accordingly the order dated 25.1.2012 is set aside. Any amount recovered from salary be returned to him without unnecessary delay. However, respondents are at liberty to take legal course against the person who had failed to give the information to Anirudh Kumar Mishra.

9. With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

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