

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43716 of 2013

Arising Out of PS.Case No. -66 Year- 2012 Thana -SANGRAMPUR District- MUNGER

1. Balmiki Yadav Son Of Late Nageshwar Prasad Yadav Muhalla - Lal Darwaja, P.O. - Munger, P.S. - Kotwaly, District - Munger

.... Petitioner

Versus

1. The State Of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Opposite Party/s : Mr. Mayanand Jha (App)

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

2 30-03-2016 Heard learned Counsel for the petitioner and learned Additional Public Prosecutor for the State.

This application, under Section 482 of the Code of Criminal Procedure, has been filed seeking quashing of the First Information Report of Sangrampur Police Station Case No. 66 of 2012, registered for the offences punishable under Sections 465, 419, 467, 468, 471 and 120B of the Indian Penal Code.

Before I refer to the contents of the First Information Report, it needs to be mentioned, as is easily evincible from the records, that the petitioner had applied for his appointment as Assistant Teacher under the Bihar Vishesh Prarambhik Shikshak Niyukti Niyamawali, 2010, on the basis of a certificate of *Shiksha Visharad*, issued from



Sewa Bharti Adhyapan Mandir, Sewapuri, Varanashi. The petitioner was appointed as an Assistant Teacher on 07.02.2012. It appears that subsequently it transpired that the said certificate of *Shiksha Visharad* issued by Sewa Bharti Adhyaan Mandir, was not duly recognized by the Government for the purpose of appointment as a Teacher. Accordingly, by an order, dated 14.07.2012, the appointment of the petitioner was cancelled on the ground that the said certificate was not genuine/issued from a fake organization.

From the First Information Report, it appears that the only allegation, which has been made against the petitioner, is that the certificate which the petitioner used for the purpose of his appointment as an Assistant Teacher was found to be not valid having been issued by an organization, having no recognition of the State Government or the competent authority, for appointment as Assistant Teacher.

Learned Counsel appearing on behalf of the petitioner has submitted that there is no allegation against the petitioner that the certificate which he had submitted for the purpose of his appointment was forged one. According to him, the only allegation against the petitioner is that the said certificate was not found to be valid for the

purpose of appointment as Assistant Teacher and accordingly his appointment was cancelled by an order, dated 14.07.2012. He submits that in such circumstance, submission of the said certificate of *Shiksha Visarad* by the petitioner cannot be said to be constituting any cognizable offence.

Mr. Mayanand Jha, learned Counsel appearing on behalf of the State of Bihar, on the other hand, has submitted that the extra-ordinary inherent power vested in the High Court under Section 482 of the Code of Criminal Procedure need not be exercised in the present case by quashing of the First Information Report itself as a cognizable offence may be found to have been committed by the petitioner in course of investigation by the police.

Upon perusal of the First Information Report, I find substance in the submission made on behalf of the petitioner that there is no allegation against him of forging any document with an intention of cheating. There is no allegation that he had obtained the said certificate fraudulently from any organization. On the plea that the concerned organization itself is a fake organization, the petitioner cannot be said to have committed the offence, in absence of any allegation that he had obtained the certificate, fraudulently or with the knowledge that the said



organization was fake one. It is not alleged against him that he obtained the said certificate knowing it well that the said organization is a fake organization. Learned Counsel appearing on behalf of the petitioner has also referred to a decision of the Allahabad High Court in Civil Misc. Writ Petition No. 20770 of 2002 (Ram Briksha Singh Yadav and another v. State of U.P. and others) in support of his contention that the said organization cannot be termed as a fake organization.

Upon the discussions, as above, I arrive at the conclusion that no offence against the petitioner of commission of offence under the provisions of the Indian Penal Code, as mentioned above, is made out in the absence of any allegation that he obtained the said certificate fraudulently from Sewa Bharti Adhyapan Mandir, Sewapuri, Varanashi. Only on the ground that the petitioner was appointed on the basis of a certificate which was subsequently found not valid for appointment of Assistant Teacher, the petitioner cannot be prosecuted for a criminal offence.

Accordingly, the First Information Report of Sangrampur Police Station Case No. 66 of 2012 and all proceedings arising out of the said case stand quashed.

This application is allowed.

However, it is made that that the validity of the certificate of *Shiksha Visarad* in favour of the petitioner, for the purpose of his appointment as an Assistant Teacher, has neither been considered in this application nor any observation made in the present order shall be treated to be an observation for the said purpose.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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