

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.98 of 2016

Arising out of P.S. Case No. -109 Year- 2013 Thana -Sikta District- WEST CHAMPARAN
(BETTIAH)

=====

Saghir Ahmad, Son of late Sheikh Bhikhari, Resident of Village- Behra, P.S Sikta,
District- West Champaran, Retired Assistant Teacher , Rajkiya Utkramit Madhya
Vidyalaya , Mahmada, Block Sikta, P.S- Sikta, District- West Champaran.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, West Champaran, Bettiah .
2. Nasir Hussain, D.P.O. (Establishment), Office of the D.E.O. West Champaran,
Bettiah.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Umesh Chandra Verma, Advocate.

For the State : Mr. Rajesh Kumar, A.C. to G.P. 28

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 18-05-2016

Heard learned counsel for the petitioner and the State.

2. The challenge in the present writ application is to
the First Information Report of Sikta P.S. Case No. 109 of 2013 dated
17.12.2013 for the offences under Sections 409, 419, 420, 467, 468,
471 and 201 of the Indian Penal Code.

3. The allegation against the petitioner is that he was
appointed on 5th of July, 1976 as Teacher on the basis of forged
educational and experience certificates. On the basis of such
allegation, an F.I.R. has been lodged in the year 2013 pointing out that
petitioner has failed to produce his certificates inspite of notice
published in the newspaper.

4. The stand of the petitioner is that all the certificates were destroyed in the fire incident which happened in the year 2010. On the basis of the complaint, proceeding for recovery of entire amount received by him towards the salary head etc. has been started and a departmental proceeding was also initiated against him.

5. A perusal of the F.I.R. shows that sole basis of the F.I.R. against the petitioner is furnishing of forged and fabricated educational and experience certificate while seeking appointment in the year 1976. An F.I.R. has been lodged on 17.12.2013 i.e. almost 35 years later. It was the responsibility of the employer to verify the genuineness of the certificates at the time of appointment or soon thereafter. The State has not taken appropriate action soon after the certificates were furnished. Thus having failed to examine as to whether the certificates furnished were false or fabricated at the relevant stage, the present proceedings is abuse of process of law. It shows that the action against the petitioner is being taken without any basis but only on account of some collateral purpose on the basis of a complaint which led to an F.I.R. The reading of the F.I.R. does not show that any offences of the kind are disclosed.

6. Consequently, the F.I.R. bearing Sikta P.S. Case No. 109 of 2013 dated 17.12.2013 is quashed, subject to the right of the employer to conclude the disciplinary proceedings in accordance

with law.

7. The writ application is, thus, allowed.

(Hemant Gupta, J)

P.K.P.
N.A.F.R.

U			
---	--	--	--