

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49455 of 2012

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1. Jai Nandan Mahto S/O Late Saryug Mahto Resident Of Indraprasth Colony (Chak Mahabbat), New Idea B.T.S. Tower, P.O- Bhikhanpur, P.S- Ahiyapur, District- Muzaffarpur, Permanent Resident Of Village & P.O- Chandwara Via- Runnisaidpur, P.S- Aurai, District- Muzaffarpur.

.... Petitioner

Versus

1. State Of Bihar
2. Kamal Kumar Sinha, presently posted as Director (Secondary Education), Education Department, Government of Bihar, Patna, resident of B. M. Das Road, P.s. Pirbahore, District Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar Jha
For the Opposite Party/s : Mr. Prabhakar Tekriwal(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

5 30-06-2017 Heard Learned Counsel for the petitioner and learned Counsel appearing on behalf of the State of Bihar.

The petitioner seeks a direction for enquiry under Section 340 of the Code of Criminal Procedure, 1973, against the Opposite Party No. 2, who, according to him, had made a false statement on oath in the show cause reply filed on his behalf in MJC No. 916 of 2009.

It is the case of the petitioner that in the said show cause reply, the Opposite Party No. 2 had made specific statement that after giving an opportunity of hearing to the petitioner, the order, dated 24.08.2009, was



passed by a competent authority, which is not factually correct.

Considering the nature of controversy, which is being sought to be raised in the present proceeding, I do not intend to proceed in the matter under Section 340 of the Code of Criminal Procedure, 1973.

The language of Section 340 of the Code of Criminal Procedure, 1973, is clear and it can be invoked when the Court is of the opinion that it is expedient in the interest of justice that an enquiry should be made into any offence referred to in Clause (b) of sub-Section (1) of Section 195 of the Code of Criminal Procedure, 1973.

I do not find it to be expedient and in the interest of justice in the present facts and circumstances to direct for an enquiry under Section 340 of the Code of Criminal Procedure, 1973.

This application is disposed of.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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