

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29827 of 2014

Arising Out of P.S.Case No. -38 Year- 1993 Thana -C.B.I CASE District- MUZAFFARPUR

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Krishna Chandra Prasad Srivastava Son of Late Kailash Bihari Yadav Resident of
Srivastava Sadan, I.G. Colony (Budh Nagar), Bhagwanpur, P.S.-Sadar, District-
Muzaffarpur.

.... Petitioner

Versus

The State of Bihar through Department of Vigilance

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Rajesh Ranjan, Advocate
: Mr. Atul Shankar, Advocate
For the Opposite Party : Mr. Ramakant Sharma, Sr. Advocate
: Mr. Amresh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 27-07-2017

The petitioner has filed this application under Section 482 of the Cr.P.C. for quashing the order dated 09.05.2014 passed by Special Judge, Vigilance, North Bihar, Muzaffarpur in Special Case No.15 of 2002 registered for the offence under Sections 7, 13(1)d) of the Prevention of Corruption Act and Sections 477 and 120B of the IPC. The prayer of petitioner to discharge him from the offence has been refused by the court below.

2. Heard and perused the records.

3. The learned court below as per impugned order refused to discharge the petitioner from the said offence. The above vigilance P.S.Case was registered on the report of Sub-Inspector of Vigilance. It



has been alleged that this petitioner in conspiracy on the other co-accused appointed Class-III and IV employees by adopting illegal means and ignoring the procedure of appointment and thereby caused loss to the government exchequer. The allegation is that this was an Assistant and on his misleading recommendation, some washer men were appointed in contravention of the circular dated 31.12.1980 issued by Department of Personnel and Administrative Reforms.

4. It has been submitted that the petitioner was an Assistant. He was neither member of the committee nor had any concern with the appointment. He had simply reported that some post of washer men was to be filled. The petitioner had no role at all in the appointment. There is no material against the petitioner in the case diary. The court below without ascertaining any material against this petitioner has rejected the prayer of discharge of the petitioner. The impugned order has been passed in mechanical manner and is fit to be quashed. The learned Special P.P. Vigilance opposed the submission. It was submitted that this petitioner had vital role in getting some incompetent person appointed. The petitioner misled the appointment committee by recommending the name of persons who were working on adhoc basis. The petitioner being an Assistant had to place all the materials before appointment committee and so his connivance in illegal appointment is apparent.



5. On perusal of FIR as well as Annexure-2, it appears that the Govt. of Bihar, Department of Personnel had issued guidelines for appointment to the post of Class-IV employees vide circular no.16440 dated 03.12.1980. As per said circular the appointment was to be made after ascertaining the vacancies. It appears that this petitioner was Assistant at SKMC, Hospital on the relevant date. He recommended and got only those persons appointed who were working as casual worker. The vacancy was neither advertised nor the applications were invited for the class IV posts after ascertaining the vacancy. The assistant has thus misled the appointment committee. The learned court below finding sufficient material against the petitioner, has rightly rejected his prayer. The defence of the petitioner shall be considered at the time of trial.

6. In view of above facts and material available on record, I find that there is no merit in the submission of the learned counsel for the petitioner. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
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