

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5642 of 2017

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Dhananjay Kumar Rai, Son of Umesh Chandra Rai, Resident of Village+ P.O.-
Kushaundhi, P.S.- Mirganj, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through, the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Collector, Gopalganj.
4. The Sub Divisional Officer, Gopalganj, District- Gopalganj.
5. Shri Imdadul Haque, Son of Not known, presently transferred as Block Supply Officer, Manjha and also Holding Additional Charges of District Supply Officer Gopalganj & Block Supply Officer, Kuchaikote, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey No-5, Advocate

For the Respondent/s : Mr. S. Raza Ahmad- AAG-5

Mr. Md. Kamil Akhtar, AC to AAG-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-05-2017

We are passing this order in this public interest petition and keeping in view the fact that the investigation is pending, we see no reason to issue notice to respondent No.5 and hear him in the matter.

The grievance of the petitioner in this writ petition is with regard to posting of respondent no.5 again in Block Manjha, District- Gopalganj, vide Annexure-5 dated 01.04.2016. Initially, the said respondent was holding the post of District Supply Officer, Gopalganj between the period 2002 to 2010 when it was alleged that huge



quantity of kerosene oil to be used for public distribution system was diverted and on complaint being made, the matter is pending consideration and investigation not only before the Vigilance Department, but also a criminal case has been registered and an enquiry is in progress before the Lokayukta Organization. It is stated that after the aforesaid incident, the respondent no.5 was transferred out of the District of Gopalganj, but suddenly by order, Annexure-5 dated 01.04.2016, he has been posted back again in the same District. Apprehending that respondent No.5 would misuse his office and create hindrance and stall the enquiry being conducted by the Lokayukta Organization, this writ petition has been filed and the limited prayer made is that the State Government be directed to post respondent No.5 in a different office.

Our attention is invited to an order passed in somewhat similar circumstances on 09.03.2015 in CWJC No.14103 of 2014 when one Sri Kripa Shankar Diwedi, who was respondent No.6 in the said case, was also similarly dealt with and initially after his transfer from the District in the year 2010 when he was re-posted in the same District, a co-ordinate Bench of this Court took serious view of the matter and directed the State Government to take action for removing the officer from the said area in view of the pendency of the criminal case and investigation by the Lokayukta Organization.



In this case also, similar and identical situation arise. Once the matter is under investigation and the respondent No.5 was initially removed from the post because of these reasons, the State Government if it thought that administration consideration wanted the posting of respondent No.5, he could have been posted in a different district other than the District where the investigation is in progress. It was not appropriate for the State Government to post the respondent No.5 again in the same district when the investigation is in progress.

Even if the respondent No.5 may not be directly involved and the apprehension of the petitioner may not be correct, but the interest of justice requires that when the investigation into the matter is in progress, a person who may, in any way whatsoever, influence the investigation should not be posted at the said place.

Taking note of the aforesaid, without commenting on the allegation made by the petitioner and taking note of the order dated 09.03.2015 in similarly situation in CWJC No.14103 of 2014, we direct the respondent Nos.1 and 2 to look into the same and pass appropriate orders with regard to the posting of respondent No.5. He may be posted in any area other than the area where the investigation is in progress. The action for passing a fresh order with regard to posting of respondent No.5 shall be taken by the respondents within a period of 15 days from the date of receipt of a copy of this order.



With the aforesaid, the petition stands disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.05.2017
Transmission Date	

