

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7927 of 2012

Arising Out of PS.Case No. -75 Year- 2005 Thana -null District- SITAMARHI

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Kishori Das S/O Late Kishuni Das R/O Vill-Sirsia Bazar, P.S. Bela, Distt-Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar
2. Jawahar Prasad S/O Sri Dashrath Prasad R/O Vill & P.O.-Bhadar, P.S.Sikraul,
Distt-Buxar/The Then Block Education Extension Officer, Sursand

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar Singh, Advocate.

For the Opposite Party/s : Mr.Devendra Kumar, Advocate.

For the State : Mr.Ajay Kumar –I,A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 26-04-2017

Heard the learned counsel appearing on behalf of the parties.

2. The petitioner has preferred this quashing petition against the order dated 16.07.2011 passed by learned Sub-Divisional Judicial Magistrate, Pupri, Sitamarhi, in connection with Sursand P.S.Case No.75 of 2005 whereby he has taken cognizance for the offence under Sections 467, 468, 420 and 471 of the Indian Penal Code.

3. Brief fact giving rise to this case is that one Jawahar Prasad,Block Education Extension Officer, Sursand, filed a written information to the Officer Incharge of Sursand Police Station,



alleging therein that the petitioner on the basis of forged caste certificate claiming himself as a member of Scheduled Tribes procured government job as a teacher, as on conclusion of enquiry by the District Education Officer his caste certificate was found forged and fabricated. At the relevant time the petitioner was Headmaster of Primary School, Adalpur, Sursand.

4. Learned counsel for the petitioner submits that the petitioner belongs to “Banodhia” community and that caste comes under the category of Scheduled Tribe in view of the Scheduled Castes and Scheduled Tribes List (Modification) Order, 1956. It is also submitted that order of dismissal of the petitioner which is Annexure-7 shows that his caste certificate is found forged as only suspicion was raised and there is no final conclusion that said certificate is forged. Even in para 31 of the case diary the statement of B.D.O. clearly reveals that all the records of the relevant period with respect to caste certificates do not exist in the office, as all the records lost in flood. The petitioner moved before this Court against his dismissal order vide C.W.J.C. No.14527/05 (Annexure-8) and by order dated 14.02.2011 the Court observed that there is only possibility that the certificate is forged. On such surmises, it cannot be held that in fact the certificate was forged. So the Court directed the department to give all the benefits to the petitioner and payment of



salary for the period he was kept out of service after quashing of the order of his dismissal from service.

5. Learned Additional Public Prosecutor submits that there is no illegality in the impugned order and charge sheet has been submitted against the petitioner.

6. Considering the rival submissions and materials on record it appears that no conclusive finding was made during the enquiry relating to forged document. The evidence collected in the case diary shows that all records of all castes certificates issued prior to 1975 by the concerned block Sursand, Sitamarhi. are not available as lost or damaged in the recurrent floods. Moreover 'Bedia' community comes under a Scheduled Castes and Scheduled Tribes as per Government Notification, 1956. The dismissal order passed by the Department on that very ground was earlier quashed by this Court considering every aspect of the matter and directed to pay his salary during the period of suspension; now the petitioner has retired and only suspicion of forged caste certificate submitted by the petitioner is raised that too while applying for the post of teacher a way long back now he has superannuated after completing his full length of service. Moreover the concerned authority has no original record to prove that certificate submitted by the petitioner was a forged caste certificate, there is also no material collected during investigation that



he belongs to any other caste. Therefore, for the aforesaid reason no prima facie case is made out against the petitioner under Sections 467, 468, 420 and 471 of the I.P.C. hence, impugned order taking cognizance dated 16.07.2011 and subsequent criminal proceeding against the petitioner is quashed.

In the result, the petition is allowed.

(Arun Kumar, J)

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