

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14777 of 2017

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Jata Shankar Jha, Son of Late Prem Lal Jha, Resident of Village-Parjuar, P.S.-Arer,
District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development & Housing Department, Government of Bihar, Patna.
2. The Madhubani Nagar Parishad through the Chairman, District-Madhubani.
3. The District Magistrate, Madhubani, District-Madhubani.
4. The Lokayukta, Bihar through the Secretary, 4, Kautilya Marg, Patna-800 001.
5. Jitendra Kumar Pathak, Son of Srimant Pathak, Resident of Village-Marar, P.O.-Jitwarpur, P.S.-Rahika, District-Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate with Mr. Kripa Nand Jha, Adv.
For the Respondent-State	:	Mr. Shankar Kumar, AC to AAG- 7
For the Nagar Parishad	:	Mr. Purushottam Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-11-2017

Heard Mr. Y.V. Giri, learned senior counsel appearing for the petitioner along with Mr. Kripa Nand Jha, the Advocate on record, Mr. Shankar Kumar, learned Assisting Counsel to Additional Advocate General No.7 for the State and Mr. Purushottam Jha, learned counsel appearing for the Nagar Parishad, Madhubani.

The petitioner has questioned the proceedings before the learned Lokayukta, Bihar, Patna in Complaint Case No. Lok. 13 of 2016, inter alia, on grounds that not only the complaint which is the foundation for the proceeding is vague and without descriptive details, the issue of validity of appointment of the petitioner has already been tested before this Court on numerous occasion. He submits that even the allegation that



the petitioner has secured appointment on forged documents, stands answered in the judgment and order of the criminal court passed in Trial No.298 of 2007 arising from Madhubani P.S. Case No.125 of 1995.

According to Mr. Giri, learned senior counsel appearing for the petitioner, the petitioner has been subjected to litigations at the instance of persons with vested interest right since his appointment and even though this Court has upheld the appointment of the petitioner at each stage as confirmed from the orders placed on record of the writ proceedings, yet it has not satisfied the motivated interests and is now in the shape of a vague complaint, a copy of which is placed at Annexure 9 which simply charges the petitioner of having secured appointment on a forged certificate and that he is indulging in irregularities in execution of schemes.

Learned senior counsel has after referring to the orders passed by this Court present at Annexures 3, 4 and 5/1 has also referred to the judgment of the criminal court at Annexure-6 to inform that for the same allegation a criminal case was instituted against the petitioner and which has resulted in his acquittal. He submits that there has to be an end of harassment faced by the petitioner and that the same issue cannot be allowed to be raised at regular intervals.

While questioning the proceedings on the issue of jurisdiction in reference to the provisions underlying section 2(a) read alongside section 2(f) of the Bihar Lokayukta Act, 2011 (hereinafter referred to as 'the Act') he submits that in view of the adjudication by the Courts on the



issue of educational qualification and in view of the vagueness of the allegation in so far as the irregularities in execution of scheme is concerned, the learned Lokayukta should have dismissed the complaint in exercise of jurisdiction vested under rule 12(5) and 12(6) read alongside section 16 of 'the Act.

It is submitted that even though the petitioner has drawn the attention of the learned Lokayukta to all these aspects by filing a show cause and raising objections on the continuation of the proceeding yet without examining the objection so raised by the petitioner to the complaint in the show cause filed in the proceedings that an order was passed by the learned Lokayukta on 16.8.2017 requiring the petitioner to produce his educational qualification and also to participate in the proceeding day to day.

Learned counsel in the circumstances prayed for issuance of a writ in the nature of prohibition restraining the learned Lokayukta from proceeding further in the proceeding in view of the stipulations underlying 'the Act' and 'the Rules' as also in view of the fact that the cloud raised on the appointment of the petitioner has been set at rest by the orders of this Court and the order of the trial court and none can be allowed to indulge for vexatious litigation.

The contentions advanced by learned senior counsel, is supported by the learned counsel appearing for the State as well as the counsel for the Nagar Parishad, who do endorse that there is no infirmity in the appointment of the petitioner.



Having heard learned counsel for the parties and in the nature of issue so raised by the petitioner which stands noted hereinabove I am of the considered opinion that before the learned Lokayukta would proceed to consider the matter on its merit, the objections raised by the petitioner in reference to the orders of this Court as well as the order of the criminal court and the stipulations present under ‘the Act’ and ‘the Rules’ framed thereunder would require a disposal by a speaking order.

The writ petition is thus disposed of with a request to the learned Lokayukta, Bihar, Patna to consider the objection filed by the petitioner in the form of show cause, a copy of which is present at Annexure 10 and dispose of the same in accordance with law after opportunity of hearing to the petitioner who shall be at liberty to raise all issues as raised herein, as well as the complainant and other contesting parties.

It goes without saying that the proceeding in so far as the merit of the complaint is concerned, shall be kept in abeyance until disposal of the objections by the learned Lokayukta, Bihar, Patna.

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.11.2017
Transmission Date	NA

