

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.47670 of 2014**

Arising Out of PS. Case No.-21 Year-2008 Thana- PRATAPGANJ District- Supaul

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1. Upendra Sardar S/o Shri Hedi Sardar
  2. Priya Roushan Bharti S/o Shri Devnandan Bhindwar
  3. Dhananand Yadav S/o Late hari Lal Goit
  4. Nirmala Devi W/o Upendra Sardar All are Resident of Village + P.O. Shripur, P.S. Pratapganj, District Supaul.
  5. Mol Mishra S/o Late Digamber Mishra Resident of Village + P.O. Rajeshwari, P.S. Koriapatti, District Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bimla Nand Jha S/o Late Dayanath Jha Resident of Village + P.O. Shripur, P.S. Pratapganj, District Supaul.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s     | : | Mr. Amrit Abhijat      |
| For the Opposite Party/s | : | Mr. Sharda Nand Mishra |
| For the State            | : | Mr. Nand Kumar         |

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL ORDER**

4      03-07-2018                      Heard learned counsel for the petitioners, learned counsel for the informant and learned counsel for the State.

This petition has been filed under Section 482 Cr. P.C. for quashing the order dated 02.05.2014 passed by S.D.J.M., Birpur, Dist. Supaul by which learned Magistrate has taken cognizance for offence under Sections 420, 467 and 471/34 of the IPC and issued summons against petitioners.

The allegation in complaint petition which was sent to Police Station under Section 156(3) Cr. P.C. is that son of the complainant has produced entire document for appointment as



Shiksha Mitra before the Appointment Committee of Panchayat level Sukh Suvidha Shiksha Samittee, but illegally the son of the complainant, namely Ravish Kumar Jha who was having higher marks was not selected and opposite party no.2 was selected who was minor aged about 16 years 3 months and 23 days and having less marks than the son of the complainant. In the complaint petition, the complainant has mentioned about the other illegality committed by the committee with respect to other candidates.

Learned counsel for the petitioners has submitted that these petitioners have no *locus standi* because the son of the complainant was not applicant against the post of Shiksha Mitra in 2003. The same is evident from enquiry report of Block Development Officer dated 26.06.2008 which is annexed as Annexure-5 to the petition. It is further submitted that police after investigation has submitted final form in this case dated 27.05.2009 (Annexure-2). The learned SDJM directed for re-investigation of the case by order dated 04.08.2010 (Annexure-3) and after re-investigation, the police submitted charge-sheet against these petitioners vide charge-sheet no. 43 of 2011 dated 30.08.2011 (Annexure-4). Thereafter cognizance has been taken by the learned Magistrate against the petitioners by order dated



02.05.2014 which is under challenge in this quashing application.

From the impugned order, it appears that the learned Court below has taken cognizance against the petitioner for the offence under Sections 420, 467 and 471/34 of the I.P.C. As per the complaint petition which was filed by the complainant irregularities mentioned in the complaint was committed by the Appointment Committee in selection of the Shiksha Mitra. It is alleged that accused no. 2 Priya Roushan Bharti was appointed at the age of 16 years, 3 months and 23 days. Similarly, it is alleged with regard to petitioner no.1, namely, Upendra Sardar that irregularities have been committed in his selection. The other two petitioners were alleged to be member of Appointment Committee. The Committee has committed illegalities as mentioned in the complaint petition. Annexure-5 is enquiry report of the Block Development Officer dated 26.6.2008 wherein it is mentioned that son of the complainant was not applicant in the aforesaid selection process. The petitioner has also referred to Annexure-6 which is the guidelines issued for selection of the Shiksha Mitra wherein in Clause 4 (G), there is no minimum age fixed for the selection of Shiksha Mitra. The maximum age limit is only fixed. The



candidate should not be more than 30 years of age. This Court, after looking into the allegation made in the complaint finds that complainant has levelled allegation of committing irregularities by the Appointment Committee in selection of the Shiksha Mitra. The selection was done by the committee, namely, Sukh Suvidha Shiksha Samittee. There is general and omnibus allegation made against the accused persons in the complaint petition. Therefore, this Court does not find any ingredients of offence under Sections 420, 467 and 471/34 of the I.P.C in this case on the basis of allegation made in the complaint.

Therefore, the impugned order dated 02.05.2014 passed by S.D.J.M. Birpur along with entire criminal proceedings against the petitioners is hereby quashed.

This Cr. Misc. petition is, accordingly, allowed.

**(Sanjay Priya, J)**

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