

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1196 of 2017

In

Civil Writ Jurisdiction Case No.9275 of 2017

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Sunil Kumar Son of Sri Dasrath Prasad resident of Vill.-Dunjan Chak, P.O. +
P.S.-Sakshona, Distt. Patna.

... .. Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The Director, Primary Education, Department of Education, Government of Bihar, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The District Education Officer, Rohtas at Sasaram.
5. The Block Education Officer, Block-Shivsagar, Distt, -Rohtas.
6. Mukhiya, Gram Panchayat Raj Sirari, Block-Shivsagar, Distt.-Rohtas.
7. The Panchayat Secretary, Gram Panchayat Raj, Silari, Block-Shivsagar, Distt.-Rohtas.
8. The Lokayukta, Bihar through its Secretary, Kautilya Marg, Bailey Road, Patna.
9. Anusha Kumari, Daughter of Chhabinath Ram resident of Vill.+P.O.-Dharpokhar, P.S.-Karamchat Sadar, Distt.-Kaimur.
10. Urmila Devi Wife of Sheojagi Ram Resident of Vill.-Kurtha, P.O.-Baraila, Distt.-Rohtas

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sanjay Kumar Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey AAG15 Mr. Shashi Shekhar Tiwary AC to A.A.G. - 15
For the Respondent No. 10:		Mr. Bishwajeet Pandey Advocate
For the Respondent No. 9:		Mr. Rewati Kant Raman Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

6 03-05-2018 Heard learned counsel for the appellant, counsel for

the State as well as the counsel appearing on behalf of the



private-respondents.

The submission of the counsel appearing on behalf of the appellant is that the departmental enquiry initiated against the appellant cannot continue in view of the requirements as envisaged under Section 27 of the Bihar Lokayukta Act, 2011. Section 27 of the said Act reads as under:

“27. Action on inquiry in relation to Public Servants not being Chief Minister or Ministers or Members of the State Legislature – (1) Where after the conclusion of the inquiry or investigation, the findings of the Lokayukta disclose the commission of an offence under the Prevention of Corruption Act, 1988 by a public servant referred to in clause (d), (e), (f) or (g) of sub-section (1) of Section 16, any officer authorized by Lokayukta shall -

(a) file a case in the Special Court and send a copy of the report together with its findings to the competent authority; and

(b) recommend to the competent authority for initiation of disciplinary proceedings under the rules of disciplinary proceedings applicable to such public servant;

(c) provide a copy of the report to the public servant or his representative;

(2) The competent authority shall, having regard to the recommendations of the Lokayukta within



a period of thirty days of the receipt of recommendation under clause (b) of sub-section (1), initiate disciplinary proceedings against the delinquent public servant accused of committing offence under the Prevention of Corruption Act, 1988 and forward its comments on the report, including the action taken or proposed to be taken thereon, to the Chairperson ordinarily within six months of initiation of such disciplinary proceedings.”

Section 27 has no applicability in the present case. No doubt the Lokayukta took cognizance of certain complaints made by the private-respondent against the manner in which appointments on the post of Panchayat Teacher was manipulated by the BDO and the Block Education Officer, who are not even competent authority to intervene in the matter of appointment of Panchayat Teachers. When the issue was being dealt with by the Lokayukta, Bihar, based on the materials, which emerged, the District Education Officer of Rohtas was also present in the proceeding, having come to know of the serious omission and commission, decided to initiate a proceeding against the appellant.

It is not a case where the Lokayukta has given direction for initiation of a departmental proceeding, pending enquiry at his level or before conclusion of the enquiry at his



level.

In that view of the matter, the Court is of the opinion that the Learned Single Judge seems to be correct in dismissing the writ application. The departmental enquiry initiated by the controlling authority or the disciplinary authority of the State Government, Department of Education, is an independent exercise, nothing to do with the enquiry, which is being carried out by the Lokayukta.

Appeal has no merit. It is dismissed.

However, before parting, imposition of cost of Rs. 25,000/- (twenty five thousand) only, under the circumstances explained by the learned counsel for the appellant and for his assistance, is reduced to Rs. 12,000/- (twelve thousand) only.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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