

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 5537 of 2015**

Arising Out of P.S. Case No.-126 Year-2010 Thana- BARAHIYA District- Lakhisarai

Suresh Prasad Singh, Son of Late Saryug Prasad Singh, Resident of
Karyanand Nagar, Lakhisarai, Ward No.8, P.S. District-Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The B.D.O, Barahiya P.S.-Barahiy, District-Lakhisarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P. P. N. Sahi, Advocate
For the State	:	Mr. Yogendra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 18-06-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. Pursuant to order dated 10.05.2019, the BDO,
Barahiya is present in Court and has also filed his show cause. The
reason why the officer was called has been recorded in the
previous order.

3. The petitioner has moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That this application for quashing of
the order taking cognizance dated 17.01.2015
passed in Barahiya P.S. Case No. 126 of 2010
dated 28.08.2010, for offence alleged U/s 406, 409,*



420, 467, 468, 471/120B I.P.C. passed by learned Chief Judicial Magistrate, Lakhisarai.”

4. The allegation against the petitioner is that he had given a survey report with regard to completion of work of a school but on verification, it was found that the amount which he had approved for payment has not been spent on the said work. For such conduct, Barahiya PS Case No. 126 of 2010 was instituted. After investigation, charge sheet was submitted and cognizance taken, which is impugned in the present application.

5. Learned counsel for the petitioner submitted that for the work in question for which he has been penalized, he has never supervised the same.

6. The officer present today in his show cause has brought on record a list of 306 schools which the petitioner claims to have inspected and on the basis of which he has claimed payment of honorarium wherein at serial no. 92, the school in question is mentioned.

7. Having regard to the aforesaid, the Court finds no error in the order impugned which would require any interference by this Court.

8. Accordingly, the application stands dismissed.

9. The officer present today submitted that it is his first posting and that the office was not cooperating with him and that



is the reason why he could not file the affidavit as was directed by this Court earlier. He has also tendered unconditional apology.

10. The Court would only indicate here that mere non co-operation by others cannot be a ground for any person not to comply with the order of the Court. If there is any genuine reason, the same is required to be brought on record and further time sought for compliance. However, no officer can presume that he would not comply with the order without seeking due permission of the Court.

11. In such view of the matter, the Court was of the opinion that strict order be passed against the officer. However, as unconditional apology has been tendered, the Court refrains from doing so. He is warned to be careful in future and not to repeat such mistake.

(Ahsanuddin Amanullah, J.)

P. Kumar

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