

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4449 of 2016

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Lallan Pratap Singh son of Late Raghunath Singh, resident of Village- Baruna
Station, Police Station- Buxar Industrial Area, District- Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Deputy Inspector General of Police, Dehri-on-Sone, Rohtas.
3. The Superintendent of Police, Rohtas.
4. The Human Right Commission Bihar, Patna through its Member, Bailey
Raod, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar
For the State Mr. Indeshwari Prasad, AC to GA 3

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

5 21-08-2019 This writ application has been filed, seeking

quashing of an order dated 10.11.2015, passed by the Bihar

Human Rights Commission (for short 'the Commission') in

Case No. B.H.R.C./COMP-2857/14.

Consequent upon the said order of the Commission
dated 10.11.2015, it is the case of the petitioner that the
Superintendent of Police, Rohtas, has decided to recover a sum
of Rs. 25,000/- from the petitioner's pay/pension. An order
dated 01.12.2015, passed by the Deputy Inspector General of
Police, Rohtas, is also being challenged whereby a decision has
been taken to initiate a departmental proceeding against the
petitioner.



A counter affidavit has been filed on behalf of the respondent-State of Bihar.

I have heard Mr. Dhananjay Kumar, learned counsel for the petitioner and learned AC to GA 3 for the State.

It transpires from the materials on record that an RTI activist Charan Singh had made a complaint to the Commission to the effect that he had sought for certain informations under the Right to Information Act, 2005 (RTI, Act, in short) concerning diesel subsidy, from the Block office, which revealed serious irregularities, and was widely circulated in media. Allegedly, in retaliation, a false case was registered against him as Dinara P.S. Case No. 19 of 2014, making allegation of commission of offences, punishable under Sections 341, 347 and 386/34 of the IPC by the Panchayat Secretary of Akora Panchayat, at the behest of the Block officials. The complainant Charan Singh had to remain in custody for 14 days, in connection with the said Dinara P.S. Case No. 19 of 2014.

It further transpires that in response to the notice issued by the Commission, the Superintendent of Police, Rohtas, and the Deputy Inspector General of Police, Shahabad Range, disclosed to the Commission that initially the case was supervised by the petitioner, who was then posted as Inspector



of Police at Bikramganj and had held the case to be true, for offences under various provisions of the IPC, as noted in the FIR. It was on the intervention of the Deputy Inspector General of Police that the matter was examined afresh, whereafter the case was found to be false. Action was initiated against the Panchayat Secretary, the informant, for filing a false case. The Assistant Sub-inspector of Police, who had arrested the RTI activist, disclosed that he had made arrest under the orders of the petitioner. The petitioner has retired from service, in the meanwhile.

It further appears that, in response to the notice of the Commission, the Home Department, Govt. of Bihar, took a *suo motu* decision to allow compensation to the tune of Rs. 50,000/- in favour of the RTI activist and directed the Director General of Police, Bihar, to initiate departmental action against the Officers responsible for lodging of a false case and to recover the amount of compensation from them.

I have carefully perused the order passed by the Member of the Commission dated 10.11.2015, which is being challenged in the present writ application and I find that there is no order passed by the Commission directing the State-respondents to pay any compensation to the said RTI activist. It



was in response to the notice issued by the Commission that the Home Department, Govt. of Bihar, had itself taken a decision sanctioning a sum of Rs. 50,000/- for payment to the RTI activist, by way of compensation. There is no direction issued by the Commission to initiate a departmental action or recover the amount of compensation from the erring police official(s), rather it was the decision of the Home Department, Govt. of Bihar, as is evident from the order dated 10.11.2015, passed by the Commission, which has been brought on record by way of Annexure-6. In my view, therefore, the order dated 10.11.2015 does not require any interference by this Court.

Evidently, it was in the light of the decision, which the Home Department, Govt. of Bihar had taken for recovery of the amount of compensation, as was informed to the Commission, that by office order issued vide memo no. 4262 dated 01.12.2015, the Superintendent of Police, Rohtas, the petitioner and the Assistant Sub-inspector of Police have been asked to pay a sum of Rs. 25,000/- each, which amount the State Government had to pay by way of compensation to the RTI activist for his illegal detention.

A departmental proceeding has also been initiated with the framing of charge against the petitioner, a copy of



which has been brought on record by way of Annexure-3 to the writ application.

It has been argued by the learned counsel for the petitioner that before issuance of the impugned order dated 01.12.2015, passed by the Superintendent of Police, Rohtas for recovery of the said amount of Rs. 25,000/- from the salary/pension of the petitioner, no opportunity was given him to explain his conduct. He has argued that he was not noticed in the proceeding before the Commission, either

This is not in dispute that before issuance of the impugned order dated 01.12.2015, no notice was issued to the petitioner, seeking his explanation. In my opinion, therefore, the impugned order dated 01.12.2015 cannot be sustained, being in breach of the principles of natural justice and is accordingly quashed.

Coming now to the question of initiation of a departmental inquiry with the issuance of the charge sheet on 04.12.2015, I find that there is no dispute that the petitioner retired with effect from 30.04.2014. In such circumstance, the only option, which is available to the authorities, is to take recourse to the provisions of the Bihar Pension Rules. The charge sheet does not disclose whether the departmental action



is sought to be initiated under the provisions of the Bihar Pension Rules or otherwise. It is, however, indicated that action, if any, can be taken against the petitioner under the Bihar Pension Rules, if permissible, and if any case of gross misconduct is made out within the meaning of the provisions of the Rule 43(b) of the Bihar Pension Rules.

This writ application is allowed with the observation, as noted above.

(Chakradhari Sharan Singh, J)

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