

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12534 of 2019

1. Anand Kumar, son of Late Ashok Kumar Sinha, resident of Ward No. 22, Station Road, Belbanwa, P.O. and P.S. - Motihari, District- East Champaran (Bihar).
2. Akhilesh Srivastava, son of Late Ashok Kumar Sinha, resident of Ward No. 22, Station Road, Belbanwa, P.O. and P.S.- Motihari, District- East Champaran (Bihar).
3. Rohan Kumar, son of Late Ashok Kumar Sinha, resident of Ward No. 22, Station road, Belbanwa, P.O. and P.S. - Motihari, District- East Champaran.
4. Ajitabh Kumar Srivastava, son of Late Ashok Kumar Sinha, resident of Ward No. 22, Station road, Belbanwa, P.O. and P.S. - Motihari, District- East Champaran (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Jeevan Deep Building, Sansad Marg, New Delhi- 110001.
2. The Secretary, Ministry of Finance, Jeevan Deep Building, Sandad Marg, New Delhi- 110001.
3. The Chairman, Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, North Block, New Delhi- 110001.
4. The Member (P & V), Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, North Block, New Delhi - 110001.
5. The Directorate General of Vigilance and Customs, 3rd Floor, Samrat Hotel, Kautilya Marg, Chanakyapuri, New Delhi- 110021.
6. The Chief Commissioner, CGST and Central Excise, Ranchi Zone at Patna, Revenue Building, Bir Chand Patel Marg, Patna - 800001.
7. The Commissioner, CGST and Central Excise (GST Bhawan), Bistupur, Jamshedpur - 831001 (Jharkhand).
8. The Joint Commissioner (P & V), Central Excise and Service Tax (HQ), Revenue Building, Bir Chand Patel Marg, Patna - 800001.
9. The Assistant Commissioner, Customs (P) Division, Motihari, East Champaran.
10. Ankesh Kumar Sinha, son of Late Ashok Kumar Sinha, resident of Ward No. 22, Belbanwa, Behind Mangal Seminary Inter College, P.O. and P.S. - Motihari, District- East Champaran (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Advocate
		Mr. Santosh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. S.D.Sanjay (Additional Solicitor General)



CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 26-06-2019

The petitioners are brothers of private respondent No. 10, who appears to have been given compassionate appointment on the death of their mother who was in service, in the year 2010.

2. The petitioners have lodged a complaint that the private respondent No. 10 had fraudulently obtained appointment on compassionate ground. The complaint was filed on 04.04.2016 and a reminder was sent on 04.05.2016.

3. This Court has perused *Annexure-8* of the writ petition which is the complaint lodged by the petitioners before the Chairman of the Central Board of Excise & Customs. Thereafter, a communication was made by the Deputy Commissioner (Vigilance) of the Directorate General of Vigilance with petitioner No. 1 to confirm whether the complaint has been sent by him and for further production of any other documentary evidence which he may be in possession of for



substantiating the allegations levelled against private respondent No. 10. Thereafter, there does not appear to be any communication between the petitioners (petitioner No. 1) and the Vigilance Department of the Central Board of Excise & Customs.

4. A prayer therefore has been made in the writ petition for directing the respondents to conclude the enquiry which was initiated on the aforesaid complaint.

5. Mr. S.D. Sanjay, learned Additional Solicitor General appearing for the Central Board of Excise & Custom raises a preliminary objection with respect to the maintainability of the writ petition on the ground that the appointment of the private respondent No. 10 took place sometimes in the year 2010 and a complaint has been lodged by none others but the younger brothers of the private respondent No. 10 on 04.04.2016. He therefore submits that a vindictive action on the part of the petitioners should not be the basis for a Court passing an order under Article 226 of the Constitution of India.



6. He further submits, in support of his contention, that a Court proceeding is not a play field where such disputes are wrested. If at all the petitioners had any complaint against the appointment of respondent No. 10 on compassionate ground, it was open for them to have challenged it earlier or put up such challenge before an appropriate forum. Any notice to respondent No. 10 now would be an unnecessary interference with the efficient working of the Department where he is employed.

7. Mr. Raju Giri, learned advocate for the petitioners, on the other hand has submitted that in today's world of transparency, the petitioners are entitled to know from an employer about the result of a complaint with respect to one of the employees, more so, when the complaint is with respect to alleged fraudulent appointment on compassionate grounds.

8. The materials provided in the writ petition do not indicate whether any formal enquiry has been



initiated by the Department or the complaint referred to by the petitioners (Annexure-8) has been consigned after finding the allegations to be untrue.

9. In any view of the matter, if the complaint has not been taken to its logical conclusion, the concerned respondents are directed to conclude the same as early as possible, preferably within a period of four months from the date of production of a copy of this order.

10. This Court clarifies that there is no direction for initiating any complaint, if it has not yet begun. If the complaint has been registered and an in-house inquiry has begun, it ought to be completed in larger interest of the Department as also of the society.

11. With the aforesaid observation, the writ petition stands disposed of.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28/06/2019

