

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18880 of 2018**

Arising Out of PS. Case No.-326 Year-2017 Thana- KISHUNPUR District- Supaul

Ranjesh Kumar Singh @ Rajesh Kumar Singh, S/o Sri Chandeshwar Prasad Singh, R/o Mohalla- Vidyapuri, Ward No.2, P.S. and District- Supaul.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh

For the Opposite Party/s : Mr.Sri Dilip Kumar Sinha

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

9 03-04-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 409 and 420 of the Indian Penal Code.

The prosecution case as per the written report of Kameshwar Mahto, Panchayat Secretary of Gram Panchayat, Rajpur dated 21.11.2017 submitted to the Station House Officer of Kishanpur Police Station is to the effect that in view of the order passed by the District Teacher's Appellate Authority, Supaul in Case No. 04 of 2015 the petitioner got appointed panchayat teader by committing forgery.

It is submitted by learned counsel for the petitioner that in pursuance to the appointment made on 10.12.2006 on the



post of Panchayat Teacher under handicapped category on the basis of 45% disability of the petitioner the petitioner joined in Primary School, Paswan Tola, Sisauni, Block – Kishanpur, District – Supaul. The cut off marks for the said appointment was 60% under the general category and OBC category and since one Ashok Kumar could not fulfill the said requirement of cut off marks hence, said Ashok Kumar was not asked to appear in the counseling. Thereafter, Ashok Kumar challenged the appointment of the petitioner. On complaint made by Ashok Kumar with regard to illegality in the appointment a report was called for by the Block Development Officer from the Civil Surgeon -cum- Chief Medical officer, Supaul since the petitioner was appointed under physically handicapped quota on a certificate issued by All India Institute of Medical Sciences depicting the physical disability to the extent of 45%, whereupon the Civil Surgeon -cum- Chief Medical Officer, Supaul submitted his report to the effect that the percentage of disability of the petitioner is 35%, i.e., less than the percentage of disability being shown in the certificate produced by the petitioner. Thereafter, the Block Development Officer, Kishanpur cancelled the selection of the petitioner vide letter No. 1397-2 dated 08.11.2007 but the said order was challenged



by the petitioner in a writ application before Patna High Court vide C.W.J.C. No. 558 of 2008 which was disposed of by a Bench of this Court vide order dated 23.06.2011 with a direction to the petitioner to approach the District Teachers Appellate Authority. Consequently, the petitioner preferred Appeal No. 65 of 2011 before District Appellate Authority, Supaul and after hearing the parties, the District Appellate Authority set aside the order dated 08.11.2007 passed by Block Development Officer and directed vide order dated 01.08.20012, as contained in Annexure-8, the Panchayat Unit to reinstate the petitioner in place of Ashok Kumar. Subsequently, aggrieved by the order of the District Appellate Authority, Ashok Kumar preferred C.W.J.C. No. 15060 of 2012 which was dismissed vide order dated 21.06.2013. Consequently, aggrieved with the order dated 21.06.2013 passed in C.W.J.C. No. 15060 of 2012, said Ashok Kumar preferred L.P.A. No. 939 of 2013 which was also dismissed by the Division Bench of this Court vide order dated 19.08.2014. Thereafter, said Ashok Kumar filed Civil Review No. 214 of 2014 which was also dismissed vide order dated 23.09.2015. Thereafter, said Ashok Kumar sought information under Right to Information Act from All India Institute of Medical Sciences, New Delhi and said information



was supplied to Ashok Kumar stating therein that the said disability certificate was not issued by AIIMS. In this background, said Ashok Kumar made complaint before the Panchayat Unit and Panchayat Unit in its meeting dated 12.02.2015, wherein a decision for cancellation of the selection of the petitioner was taken and said decision of the Panchayat Unit was communicated to the petitioner vide MemoNo. 05 dated 13.02.2015. Thereafter, against the order dated 13.02.2015 the petitioner preferred Appeal No. 04 of 2015 before District Appellate Authority, Supaul and the Appellate Authority vide order dated 21.02.2017 came to the conclusion that the petitioner got appointment on the basis of forged disability certificate. Moreover, there is no provision in Bihar Primary Teacher (Employment and Service Condition) Rules, 2006 for fixation of cut off marks by the selection committee for selection and appointment of candidates on the post of Panchayat teacher. Hence, the District Appellate Authority made an observation that the selection committee ought to have lodged a case of forgery against the petitioner and consequently, the present FIR has been lodged against the petitioner. The petitioner has challenged the order of the District Appellate Authority dated 21.02.2017 in a writ application being C.W.J.C.



No. 5265 of 2018 which is pending before this Court and hence, the present application.

It is further submitted by learned counsel for the petitioner that, at present, the petitioner is not working as a Panchayat teacher and he has been removed in 2007. The question of the certificate being forged is still under challenge in the writ application, hence, the petitioner deserves sympathetic consideration. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the petitioner got appointment on the basis of forged certificate of handicapped certificate.

Considering the fact that the order of the District Appellate Authority by virtue of which, present FIR has been lodged is under challenge before this Court which is still pending and it is not in dispute that the petitioner has never been reinstated in pursuance to the earlier remand order of this Court , coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail



bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Supaul in connection with Kishanpur P.S. Case No. 326 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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