

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.511 of 2021

Arising Out of PS. Case No.-99 Year-2020 Thana- KADAMKUAN District- Patna

DR. RITA KUMARI Wife of Shri Shailendra Kumar singh Resident of Flat No. 101, shree Om Complex, Ved Nagar, Patna - 14 University Professor and Head of Department of Post Graduate Department of Botany, Patliputra University, Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Deptt., Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Higher Education, Government of Bihar, Patna.
4. The Director , Secondary Education, Government of Bihar, Patna.
5. The District Programme officer, Secondary Education, Patna.
6. The Bihar School Examination Board, Patna through its secretary.
7. The Chairman, Bihar School Examination Board ,Patna.
8. The Secretary, Bihar School Education Board, Patna.
9. The controller of Examination, Senior Secondary Examination, Bihar School Examination Board, Patna.
10. The Director (Academics), Bihar School Examination Board, Patna.
11. The Patliputra University, Patna through Registrar
12. The Vice Chancellor, Patliputra University, Patna.
13. The Registrar, Patliputra University, Patna.
14. The Principal , A.N. College, Patna.
15. The Senior Superintendent of Police, Patna
16. The Officer In Charge, Kadam Kuan, P.S. Patna.
17. The Investigating officer of Kadam Kuan Police Station Case No. 99 of 2020, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Singh, Advocate
For the Respondent/s : Mr.Anil Kumar, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 11-07-2022



Although this matter was placed by the office for listing under the heading “For Admission” but it has been inadvertently listed under the heading “For Office Notes”.

With consent of the parties, this writ application has been taken up for consideration.

This court has heard learned counsel for the petitioner as well as learned counsel for the State.

Petitioner, in the present application, is seeking the following relief:-

- “(i) For quashing the First Information Report of Kadam Kuan Police Station Case No. 99 of 2020 dated 26.02.2020 instituted under section 9 and 10 of the Bihar Conduct of Examination Act, 1981.
- (ii) For grant of any other relief/reliefs to which the petitioner may found entitled.”

Learned counsel for the petitioner submits that the petitioner was a university professor and she was earlier posted as Head of Post Graduate Department of Botany of Patliputra University, Patna. The Patliputra University issued notice that the Head of Department of University, Post Graduate Department be relieved from their parent College and submit their joining to the University. They will be on deputation in the Post Graduate Department and will report to the respective Department daily where the University Post Graduate



Department is running. The petitioner was relieved from A.N. College where she was earlier posted in the Department of Botany and as per directions she went to T.P.S. College, Patna. She submitted her joining to the Registrar, Patliputra University on 28.01.2019. It is submitted that the District Programme Officer, Secondary Education, Patna sent a written communication vide letter no. 2354 dated 26.02.2020 to Kadam Kuan S.H.O. enclosing ten separate letters for lodging First Information Report, one of the letter is related with this petitioner. It is alleged that the petitioner absented in evaluation of answer books of Intermediate Annual Examination 2020 at Evaluation Centre, Patna Collegiate School, Patna. It is for these reasons that the present F.I.R. has been lodged against her. It is further submitted that identical kind of F.I.Rs. were lodged against nine other Professors at the instance of the District Programme Officer, Secondary Education, Patna.

Learned counsel for the petitioner submits that the petitioner had not received or had been served with any appointment letter either of Head Examiner or co-examiner or examiner for evaluation of Intermediate Annual Examination answer-sheets. No consent of the petitioner was taken for this purpose. Petitioner's employer is the University and there was



no direction by the University allowing the petitioner to participate in these works.

Learned counsel further submits that this court had occasion to examine the other identically situated writ applications being Cr.W.J.C. No. 1112/2018 and other analogous matters. It is submitted that after examining the facts of those cases and the law on the subject, this court quashed those F.I.Rs. and held in the concluding part of its judgment dated 27.08.2018 that the offence under Section 10 of the Bihar Conduct of Examination Act, 1981 (hereinafter referred to as the “Act of 1981”) has been made punishable by way of imprisonment of six months but power has been vested with the Executive Magistrate to try the offence. This is not permissible being in complete conflict with the provision of Section 3(4)(a) of the Code of Criminal Procedure, 1973.

Learned counsel submits that this case is squarely covered by the judgment of this court in Cr.W.J.C. No. 1112/2018 which has attained finality.

Learned counsel for the State does not dispute the factual position as appearing from the writ application and the facts of the cases in which this court has quashed the F.I.Rs.

There being no dispute that the case of the petitioner



would be squarely covered by the earlier judgment of this court,
this court hereby quashes the First Information Report and the
entire proceedings arising out of the same.

This writ application is, thus, allowed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.07.2022
Transmission Date	12.07.2022

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

