

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17563 of 2021

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Naresh Paswan, Son of Munsii Paswan, Resident of Village and P.O. Lodhare,
P.S. - Fatehpur, District - Gaya, at present posted as Dy. S.P. PatnaPatna
Nagar Mufassil Area, Sped Branch, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Director General of Police, Govt. of Bihar, Patna.
2. The Inspector General of Police, (Head Quarter), Bihar, Patna.
3. The Superintendent of Police, Samastipur.
4. The Lokayukta, Bihar through its Secretary, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate
		Mr. Prince Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Md. N.H. Khan, SC1

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 01-09-2022

Heard learned Senior Counsel for the petitioner and
Learned Counsel for the State.

2. The issue in the writ petition arises out of an order passed by the Lokayukt. The petitioner has sought quashing of the order dated 19.03.2021. The brief factual background is that for not taking appropriate action on matters forwarded to the petitioner under Section 156(3) Cr.P.C., while the petitioner was posted as the Station House Officer at Rosera Police Station, a complaint was made before the Lokayukt, Bihar, upon which the Lokayukt has passed order which reads as follows:-



"इस बात को ध्यान रखते हुए कि अब पुरे मामले की गंभीरता से पुलिस महानिदेशक, बिहार स्वयं अवगत हो चुके है इस प्राधिकार की यह अपेक्षा होगी कि न सिर्फ प्रशंगाधीन परिवाद पत्र में दोषी पाए गए पाधिकारियो एवं कर्मचारियों के विरुद्ध नियमानुसार अनुशासनिक करवाई पूरी की जाये बल्कि जो मंतव्य संसूचित किया गया है उन्हें पुलिस मुख्यालय द्वारा प्रेस विज्ञापन के द्वारा राज्य के प्रमुख समाचार पत्रों (हिंदी, अंग्रेजी, उर्दू) में प्रकाशित करा दिया जाय और की गयी कार्रवाई से इस प्राधिकार को अवगत करा दिया जाय ताकि उनका भी समीक्षा इस आदेश के साथ लोकायुक्त संस्था के अगले वार्षिक प्रतिवेदन में किया जाना संभव हो सके। "

3. The learned Senior Counsel would submit that such direction for instituting disciplinary proceedings and reporting the outcome of the same is beyond jurisdiction of the Lokayukt, as has already been settled by a decision of a Coordinate Bench in the Case of **Bipin Bihari Singh versus The State of Bihar and Others** reported in **2020(3) P.L.J.R.**

10. Special emphasis has been has been laid by the learned Senior Counsel on paragraphs 21, 25, 27 and 28 of the Judgment which this Court would consider it useful to reproduce:-

"21. On conjoint reading of Sections 28A and 29 of the Act, I have absolutely no hesitation in



reaching a definite conclusion that Lokayukta has no jurisdiction, acting on a complaint containing grievance of maladministration beyond submitting a report to the competent authority, as defined under Section 2(d) of the Act, prescribing the manner in which injustice or undue hardship has to be remedied or redressed. It is expected of the competent authority to examine the report and inform the Lokayukta, the action taken or proposed to be taken on the basis of the report. In view of clear language used in Section 28A of the Act, Lokayukta does not have any jurisdiction to issue any direction to the competent authority. The provision clearly stipulates that if, on receipt of report from the competent authority, in response to recommendations made by the Lokayukta, the Lokayukta is dissatisfied with the action taken or proposed to be taken, he can make 'a special report to the Governor of the State and inform the complainant in this regard'. Lokayukta does not have any other jurisdiction at all under the Act when the matter is on the basis of a complaint raising a grievance of maladministration.

25. On the basis of discussions as noted above, it can be easily culled out that Section 27 of the Act is the only provision which enables the institution of Lokayukta to make recommendations to the competent authority for initiation of disciplinary proceeding upon recording a finding which discloses commission of an offence by a public servant punishable under the Prevention of Corruption Act 1988. In case, a recommendation is made by Lokayukta, in exercise of power under Section 27 of the Act, the competent authority is obliged to initiate disciplinary proceeding against the delinquent public servant 'accused of committing the offence under the



Prevention of Corruption Act, 1988' and forward its comment on the report including action taken or proposed to be taken thereon, to the Chairperson of Lokayukta within six months of initiation of such disciplinary proceeding.

27. If a statutory authority assumes to act in a case over which the law does not give it authority, the proceeding and adjudication will be altogether void. An authority has jurisdiction of any subject matter if, by the law of its organization, it has authority to take cognizance of, try, and determine cases of that description and not otherwise. (See A Treatise on the Constitutional Limitations by THOMAS M. COOLEY).

28. Before I conclude, I need to observe that the institution of Lokayukta must remind itself the purpose of its constitution and its own limitations, while exercising its powers and discharging its duties and functions under the Act of 2011. It cannot act beyond the provisions of the Act which has constituted it. The Lokayukta is certainly not a super executive empowered to supervise/ control functionings of the executive and issue commandments to various functionaries asking them to discharge their duties in a particular manner. Further, the Lokayukta does not have any power of judicial review over administrative action, akin to the powers of the High Court under Article 226 of the Constitution of India."

4. In view of the settled legal position, the learned counsel for the State has fairly submitted that, the parameters for exercise of jurisdiction by the Lokayukt having



been settled, it is difficult for him to make any submission in support of the order passed by the learned Lokayukt impugned in the instant proceedings.

5. The law having been settled, this Court would find that the order of the Lokayukt to be in excess of jurisdiction and legally unsustainable. The order of the Lokayukta dated 19.03.2021 is therefore quashed.

6. Writ application stands allowed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
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