

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 17514 of 2021

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Pankaj Kumar Son of Suresh Chandra Paswan Resident of Mohalla/Village and P.O.- Kolawara, P.S.- Parbatta, District- Khagaria, at present posted as Dy. S.P. (H.Q), Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Govt. of Bihar, Patna.
2. The Superintendent of Police, Bhojpur, Ara.
3. The Sub-Divisional Police Officer, Sadar, Ara, Bhojpur.
4. The Lokayukta, Bihar through its Secretary, Bihar, Patna.

... .. Respondent/s

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For the Petitioner/s	:	Mr Mrigank Mauli, Sr Advocate with Mr Prince Kr Mishra, Advocate
For the Respondent/s	:	Mr Sheo Shankar Prasad, SC VIII Mr Sanjay Kumar, AC to SC VIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

4 15-12-2022 Mention slip has been filed for listing the case out of turn for its disposal in view of the settled legal position arising out of decision of this Court dated 03.06.2020 rendered in CWJC No 18053 of 2019.

Heard learned senior counsel for the petitioner and the respondents.

There was a complaint against the petitioner, who was the Sub Divisional Police Officer, regarding improper supervision in respect of a criminal case. The same has resulted in the matter being taken to the Lokayukta, Bihar and the Lokayukta has directed for initiation for proceedings against the petitioner. The issue, whether such proceedings can be directed by the Lokayukta being settled in terms of decision of this Court



in the case of ***Bipin Bihari Singh -Versus- State of Bihar & Others*** reported in ***2020 (3) PLJR 10***, the petitioner has sought disposal of this writ petition.

Learned State Counsel has given his consent for disposal in terms of decision of this Court in the case of ***Bipin Bihari Singh (supra)*** on the Mention Slip.

Since reliance is placed on decision decision of this Court in the case of ***Bipin Bihari Singh (supra)***, this Court would consider it useful to reproduce extract of the said judgment which reads as follows:

“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.”

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.

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.

Writ application stands allowed.

(Madhuresh Prasad, J)

M.E.H./-

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