

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.52643 of 2015**

Arising Out of PS. Case No.-20 Year-2013 Thana- BELSAND District- Sitamarhi

Ram Pukar Rai S/o Late Brahamdeo Rai, Retired Head Master, State Primary School, Manchi Bhandari Belsand, Sitama R/o Village- Sirkhiria, P.S.- Runnisaidpur, District- Sitamarhi.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar @ S.K, Advocate

For the Opposite Party/s : Mr. Ravindra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

2      30-08-2023                      1. Heard learned counsel for the petitioner and learned APP for the State.

2. The present quashing application has been filed seeking quashing of the order dated 04.09.2015 passed in Tr. No. 3082 of 2015 arising out of Belsand P.S. Case No. 20 of 2013 corresponding to G.R. Case No. 767 of 2013 whereby the learned SDJM, Sadar Sitamarhi dismissed the application seeking discharge filed on behalf of the petitioner.

3. The learned counsel for the petitioner submits that petitioner was appointed as a teacher in a Government school on 02.01.1984 and he retired as Headmaster on 31.10.2012. It is next submitted that the informant alleges that the petitioner retired on 31.10.2012 but handed over charge of the Treasury



Messenger Register on 08.03.2013 i.e. four months seven days after his retirement, further he also withdrew his retiral benefits amount to Rs. 10,34,055/- unauthorizedly and illegally in connivance with District Programme Officer and Treasury Officer, Sitamarhi by committing cheating as detailed in the FIR.

4. The learned counsel for the petitioner next submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that it is not alleged that petitioner misappropriated any public money rather what is alleged is that he withdrew his own retiral benefits. It is next submitted that though F.I.R. was instituted, but then no departmental proceeding was initiated against the petitioner after his retirement though the act complained of falls within the purview of Rule 43(b) of the Bihar Pension Rules i.e. if what has been alleged in the FIR is true, in that event the authorities could have initiated a proceeding under the Bihar Pension Rules, but then no such proceeding was initiated. It is next submitted that petitioner thereafter got all his retiral benefits and presently is also getting his pension. It is thus submitted that since the petitioner received all his retiral benefits and is also getting his pensionary benefits, this, *prima facie*, demolishes the case of the



prosecution that petitioner committed any cheating or fraudulently withdrew his pension. It is further submitted that the pension was withdrawn on orders of the District Programme Officer and thereafter was paid by the Treasury. It is next submitted that the informant for reasons best known instituted a malicious prosecution.

5. The learned A.P.P. for the State, Mr. Ravindra Kumar, opposes the quashing application filed on behalf of the petitioner.

6. Considering the submissions made by the learned counsel for the petitioner, the order dated 04.09.2015 passed in Tr. No. 3082 of 2015 arising out of Belsand P.S. Case No. 20 of 2013 corresponding to G.R. Case No. 767 of 2013 whereby the learned SDJM, Sadar Sitamarhi was pleased to dismiss the discharge application of the petitioner **stands quashed.**

**(Satyavrat Verma, J)**

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