

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.968 of 2021

Arising Out of PS. Case No.-163 Year-2021 Thana- BIRAUL District- Darbhanga

UMESH KUMAR YADAV S/o AYODHI YADAV AMAR R/o VILLAGE-KASHA, P.S- MADHEPUR, DISTRICT-MADHUBANI Petitioner/s
Versus

1. THE STATE OF BIHAR THROUGH VIGILANCE DEPTT. INVESTIGATION BUREAU, 6 CIRCULAR ROAD, PATNA. BIHAR
2. THE SUPERINTENDENT OF POLICE, VIGILANCE INVESTIGATION BUREAU, BIHAR,PATNA. PATNA.
3. MD. NAJEEMUDDIN,POLICE INSPECTOR -CUM- ADDITIONAL INQUIRY OFFICER, TEACHER EMPLOYMENT INQUIRY, DARBHANGA DISTRICT- DARBHANGA, VIGILANCE INVESTIGATION BUREAU.
4. THE STATION HOUSE OFFICER, BIRAUL P.S, DARBHANGA. DARBHANGA.
5. THE SECRETARY, BIHAR SCHOOL EXAMINATION BOARD (HIGHER SECONDARY), BIHAR,PATNA. PATNA.
6. THE VIGILANCE OFFICER, VIGILANCE CERTIFICATION CELL, BIHAR SCHOOL EXAMINATION BOARD, PATNA. B.S.E.B (HIGHER SECONDARY), PATNA.
7. THE PRINCIPAL, DEV NARAYAN YADAV COLLEGE, MADHUBANI. MADHUBANI.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Jagnath Singh Ms. Jyoti Joshi
For the State	:	Mr. Suman Kumar Jha, AC to AAG 3
For the Vigilance	:	Mr. Arvind Kumar
For the B.S.E.B.	:	Mr. Gyan Shankar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

10 21-08-2023 The petitioner has filed the present writ application for quashing of the First Information Report of Biraul Police Station Case No. 163 of 2021, dated 07.07.2021, registered under Sections 420/467/468/471/120-B of the Indian Penal Code. The First Information Report, in question, was registered by the Vigilance Officer, Vigilance Verification Cell, with the allegation that the mark sheet of Intermediate of Arts used by



the petitioner for appointment as Physical Teacher in Middle School, Paho Patti, Parsharma, has been found to be fake upon verification.

2. The brief facts, giving rise to this writ application, is that the petitioner passed the matriculation examination from L. N. High School, Marauna, in the year 1991, whereafter the petitioner took admission in Intermediate of Arts, in Dev Narayan Yadav College, Madhubani, on 16.09.1991. The petitioner appeared in the Intermediate of Arts Examination, conducted by the erstwhile Bihar Intermediate Education Council in May, 1993, having Roll Code 554, Roll Number 30530, in which the petitioner was declared pass.

3. Pursuant to an advertisement, issued for the appointment of Second Phase Teacher, in the year 2008, the petitioner applied for the post of Physical Block Teacher on 17.10.2008 in Biraul block, in which the name of the petitioner was placed at serial no. 59. After selection process, he was placed at serial no. 7 and was selected and posted in Middle School, Paho Patti, Parsharma, vide memo no. 217, dated 12.08.2010. After appointment, the petitioner submitted his joining on 30.08.2010 and started discharging his duty as Physical Teacher.



4. Pursuant to the order passed by this Court, in CWJC No. 15459 of 2014, a vigilance enquiry was instituted and in pursuant thereto, the Vigilance Verification Cell submitted a report, on 25.03.2021, stating that upon verification with respect to 774 candidates, along with their certificates, and upon verification of 247 candidates by comparing their certificates with Reserve Tabulation Register, where the name of the petitioner was placed at serial no. 1A and in the remarks column, it has been mentioned as “fake”, meaning thereby mark sheet of Intermediate of Arts submitted by the petitioner was found to be fake as per verification report forwarded by the Bihar School Examination Board. It may be noted that the Bihar Intermediate Education Council subsequently merged with the Bihar School Examination Board. On the basis of the said report, the First Information Report, bearing Biraul Police Station Case No. 163 of 2021 has been registered against the petitioner.

5. Learned Counsel for the petitioner submits that the Bihar School Examination Board did not verify the mark sheet issued by the erstwhile Bihar Intermediate Education Council and did not verify it from the letter, dated 30.12.1994 of the erstwhile Bihar Intermediate Education Council and if it had



been verified, then the finding recorded by the Bihar School Examination Board as fake regarding the mark sheet of Intermediate of Arts of the petitioner would not have been there.

6. The First Information Report, in question, has been registered with the allegation that the certificate of Intermediate of Arts produced by the petitioner has been found to be fake upon enquiry.

7. Learned Counsel submits that there is no manipulation and discrepancy in the mark sheet of Intermediate of Arts produced by the petitioner at the time of his appointment inasmuch as the verification of the same was not done properly by the Bihar School Examination Board with the Tabulation Register and the record of the school.

8. A counter affidavit has been filed on behalf of the respondent no. 5-Bihar School Examination Board, stating therein that the case of the petitioner was duly examined by a Sub-Committee of the Bihar School Examination Board, and on the basis of materials available in the records, the Sub-Committee has come to the finding that upon verification of the marks mentioned in the mark sheet produced by the petitioner and the forwarding letter sent by the concerned College, vide letter no. 134/21, dated 26.11.2021, the subject wise marks



obtained by petitioner were found to be the same. It has further been stated that on verification of the mark sheet produced by the petitioner, bearing Mark sheet No. 64770, the same has also been found to be issued by the Stationary/Store Section of the Bihar School Examination Board. The Sub-Committee of the Bihar School Examination Board, after thorough consideration of the matter, has clearly recommended for necessary correction in the Reserved Tabulation Register as well as D.M.S., and also to send the amended verification report to the vigilance Bureau.

9. In the light of the recommendation made by the Sub-Committee of the Bihar School Examination Board, the required amendment in the D.M.S. has also been done, showing the petitioner to be passed in Second Division, with 517 marks, and information to this regard has been sent to the Vigilance Verification Cell, vide letter, dated 21.01.2023.

10. Learned Counsel for the Vigilance submits that the Vigilance Bureau has registered the First Information Report on the basis of the verification report submitted earlier by the Bihar School Examination Board, regarding mark sheet being fake, which has, now, been found to be genuine.

11. Learned Counsel for the State submits that after investigation, charge sheet has been submitted against the



petitioner.

12. I have heard learned Counsel for the parties concerned and have gone through the materials available on record.

13. From the First Information Report, it is evident that the only allegation against the petitioner is that he produced a fake mark sheet of Intermediate of Arts at the time of his appointment as Block Physical Teacher, which has been annexed as Annexure 1 to the writ application, showing that the petitioner has obtained 517 marks and has passed the Intermediate of Arts in second division.

14. Annexure B to the counter affidavit filed on behalf of respondent no. 5-Bihar School Examination Board is the amended mark sheet of the petitioner, which also shows the aggregate marks obtained by the petitioner as 517, having passed the Intermediate of Arts in second division.

15. This Court does not find any discrepancy in the mark sheet produced by the petitioner at the time of his appointment (Annexure 1) and the mark sheet issued by the Bihar School Examination Board (Annexure B) after re-verification.

16. Due to some inadvertent mistake in the



verification of the mark sheet of Intermediate of Arts of the petitioner by the Bihar School Examination Board, the First Information Report against the petitioner has been lodged, which, after proper verification, has been found to be genuine. As such, the continuation of the criminal proceeding against the petitioner on the basis of allegation/charge that he produced a fake mark sheet of Intermediate of Arts at the time of his appointment will defeat the ends of justice. In my opinion, allowing the continuation of the prosecution against the petitioner, in the facts of the present case, shall cause the petitioner undue harassment.

17. Accordingly, in order to prevent the abuse of the process of Court and to secure the ends of justice, the First Information Report of Biraul Police Station Case No. 163 of 2021, dated 07.07.2021, is hereby quashed and the entire prosecution initiated against the petitioner, pursuant to the charge sheet filed in this case is also quashed.

18. This application is, accordingly, allowed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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