

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1203 of 2021**

Arising Out of PS. Case No.-98 Year-2021 Thana- PHULWARIA District- Begusarai

Rita Kumari W/O Vivekanand Mishra R/O Village And P.S.- Phulwaria,  
District- Begusarai

... .. Petitioner/S

Versus

1. The State Of Bihar Through The Superintendent Of Police, Begusarai
2. The Superintendent Of Police Begusarai
3. The Deputy Superintendent Of Police Teghra, District- Begusarai
4. The Station House Officer, P.S.- Phulwariya Police Station, District- Begusarai
5. The Investigating Officer Of Phulwariya Police Station Case No. 98 Of 2021. Distt.- Begusarai
6. Block Education Officer, Theghra Namely Bhuvaneshwar Rai, S/O Late Jamun Rai R/O Village- Ramaiya, P.O.- Bhadaiya, P.S.- Mohaddi Nagar, District- Samastipur, Presently Posted At Block And P.S.- Teghra, District- Begusarai
7. The District Education Officer, Begusarai
8. The District Programme Officer, Estb. Begusarai

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Amit Narayan, Adv.

For the Respondent/s : Mr. M. Nasrul Huda Khan, Adv.

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**

**ORAL JUDGMENT**

**Date : 06-04-2023**

Learned counsel for the petitioner and learned  
counsel for the State present.

The present criminal writ application has been filed  
for quashing of the F.I.R. in Phulwariya P.S. Case No. 98 of  
2021 dated 21.06.2021 lodged under Sections 420, 409, 467,  
468 & 471 of the I.P.C.

Counsel for the petitioner submits that the present  
F.I.R. is the second F.I.R. against the petitioner. He submits that  
the first F.I.R. was lodged by the Principal of the School bearing

Begusarai Town P.S. Case No. 112 of 2017 dated 04.03.2017 lodged under Sections 420, 467, 468, 474 & 120(B) of the I.P.C. Counsel submits that the said case has resulted into submission of the final Form which is Annexure- 2 by which, it has been filed untrue and matter has closed, which was subsequently, accepted by the Court considering that the said amount was received by the petitioner and others by virtue of order dated 15.03.2013 passed by this Hon'ble Court in C.W.J.C. No. 2463 of 2010 followed by Board Memo No. 4530 dated 26.11.2014.

Counsel for the petitioner submits that working of petitioner was also tested in C.W.J.C. No. 10800 of 2014 vide order dated 25.08.2014. Counsel further submits that once the matter has been tested by the Hon'ble High Court, then at least it cannot come within the purview of fraud and filing the case constituting fraud against the petitioner is not correct.

Counsel for the State submits that the F.I.R. which the petitioner is challenging before this Court in the present writ petition has been filed only after passing the order in C.W.J.C. No. 6066 of 2015 dated 23.04.2018.

Counsel for the petitioner has placed the copy of the said order before this Court. From the contents of the order passed in the writ petition, it transpires to this Court that all decisions of all earlier writ petitions have already been

considered in C.W.J.C. No. 6066 of 2015 dated 23.04.2018. The relevant part which this Hon'ble Court has directed in the said writ petition is as follows:

*“Having regard to the aforesaid, the writ petition stands allowed. The appointment of respondent nos. 7, 8 and 9 are held to be void ab initio as the same is a total and complete fraud on the system. As a consequence, all subsequent orders passed in their favour stands set aside. They are required to refund the money taken by them on the basis of such, so called appointment within three months from today. The same shall be refunded and deposited in Government's account. The respondent nos. 3 and 4 shall ensure that the same is done. Upon failure to do so, the respondent nos. 3 and 4 shall ensure recovery, in accordance with law, including through coercive measures against respondent nos. 7, 8 and 9.”*

It is pertinent to mention here that in the said writ petition, respondent no. 8 is the writ petitioner of the present criminal writ petition.

Counsel for the petitioner further submits that the proper way of recovery of money is to file certificate case and not to file criminal case. Counsel further submits that the said order dated 23.04.2018 passed by this Court in C.W.J.C. No. 6066 of 2015 was challenged before the Division Bench of this Hon’ble Court bearing L.P.A. No. 641 of 2018 which was dismissed vide order/ judgment dated 10.05.2019. Counsel submits that the petitioner has filed a Civil Review, thereafter bearing Civil Review No. 221 of 2019 which is still pending before this Court.

Upon going through the submissions mentioned above, particularly, when the present F.I.R has been filed on the basis of the observations made in the order passed by the Hon’ble Single Judge, approved by the Hon’ble Division Bench in L.P.A., this Court is not inclined to interfere for quashing of the said F.I.R.

In this view of the matter, the present criminal writ application stands dismissed.

**(Dr. Anshuman, J.)**

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