

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51197 of 2017

Arising Out of PS. Case No.-283 Year-2013 Thana- BEGUSARAI TOWN District- Begusarai

Jainarayan Yadav Son of Late Parmeshwar Yadav, Ex-Incharge Headmaster,
B.P. High School, Begusarai, Now retired, Resident of Village- Dariya Pur,
P.S.- Matihani, District- Begusarai.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Dr. Pravin Chandra Singh, Headmaster, B.P. High School, Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 01-12-2023 1. Heard learned counsel for the petitioner and
learned APP for the State.

2. The learned counsel for the petitioner submits
that the present quashing application has been filed seeking
quashing of the order dated 23.04.2014 passed by the
learned Chief Judicial Magistrate, Begusarai in connection
with Begusarai Town P.S. Case No. 283 of 2013 whereby
cognizance of offence under Section 409 of the IPC has
been taken.

3. The learned counsel for the petitioner next
submits that an administrative dispute has been given a
criminal colour. It is next submitted that O.P. No. 2 alleges



that he was posted as Headmaster B.P. High School by order dated 02.04.2013 and joined the school on 03.04.2013, but the in-charge Headmaster, Jainarayan Yadav (petitioner) did not hand over the charge to him in spite of order of the District Education Officer, Begusarai which amply demonstrates that he disobeyed the orders of the higher official and thus created obstacle in government work.

4. The learned counsel for the petitioner next submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the dispute was completely administrative for which the FIR was unwarranted, it is next submitted that on the same set of allegation, a departmental proceeding was also initiated against the petitioner but the inquiry officer exonerated the petitioner of the allegations in the departmental proceeding and the inquiry report was accepted by the disciplinary authority as would be evident from Memo No. 1132 dated 09.05.2016 Annexure-7 to the quashing application.

5. The learned counsel for the petitioner next submits that when petitioner was exonerated of the charges



in the departmental proceeding which is based on preponderance of probability, whether it would be prudent to allow the present criminal case to continue. The learned counsel next submits that he had also challenged the appointment of the O.P. No. 2 herein as Headmaster of the said school by filing C.W.J.C. No. 8480 of 2013 on the ground that the O.P. No. 2 was junior to him in the merit list. It is next submitted that the C.W.J.C. No. 8480 of 2013 was allowed by order dated 18.04.2014.

6. The learned counsel for the petitioner, thus, submits that when petitioner stands exonerated in the departmental proceeding and the appointment of the O.P. No. 2 as Headmaster of the said school stands quashed, as such, the order dated 23.04.2014 passed by the learned Chief Judicial Magistrate, Begusarai by which cognizance has been taken be quashed.

7. The learned APP for the State, Mr. Chandra Bhushan Prasad, vehemently opposes the quashing application but is not in a position to rebut the submission of the learned counsel for the petitioner that the petitioner stands exonerated in the departmental proceeding and even



the appointment of O.P. No. 2 as Headmaster of the school was quashed by order dated 18.04.2014 in C.W.J.C. No. 8480 of 2013 by this Court.

8. Considering the submissions made by the learned counsel for the petitioner, the order dated 23.04.2014 passed by the learned Chief Judicial Magistrate, Begusarai in connection with Begusarai Town P.S. Case No. 283 of 2013 whereby cognizance of offence under Section 409 of the IPC has been taken, **is hereby quashed.**

9. Accordingly, the present quashing application stands allowed.

(Satyavrat Verma, J)

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