

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1107 of 2023

Manoranjan Kumar Sinha, Son of Mehta Shyam Sundar Prasad, Resident of 66, Harihar Bhawan, Gol Bagicha, Near House of Dinesh Prasad Advocate, P.S.- Sadar, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
4. The Additional Chief Secretary, Department of Health, Government of Bihar.
5. The Divisional Commissioner, Magadh Division, Gaya.
6. The District Magistrate, Gaya.
7. Shailendra Kumar Sinha, Son of Late Krishnadev Prasad, Resident of Moholla- Magadh Colony, Road No. 18, P.S.- Magadh Medical, District- Gaya.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Mayank Rukhaiyar, Advocate
For the Respondent/s	:	Ms. Vijaya Laxmi Srivastava, AC to SC-23
For the Resp No. 7	:	Mr. Rajeev Kumar, Advocate
		Mr. Sudhir Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-05-2023 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for respondent no. 7.

2. Let it be recorded that respondent no. 7 has entered appearance on his own.

3. The petitioner in the present case is seeking setting aside of the order dated 30.11.2022 passed by the Divisional Commissioner, Magadh Division, Gaya-cum-First Appellate Authority (respondent no. 5) whereby and whereunder the said respondent no. 5 has acted beyond his jurisdiction and



recommended stringent disciplinary action against the petitioner.

Brief Facts of the Case

4. It appears on perusal of the writ application that the petitioner is working as Clerk-cum-Incharge Accountant at the Augrah Narayan Medical College and Hospital, Gaya (hereinafter referred to as the 'College'). The respondent no. 7 claims himself a social worker. The respondent no. 7 made a complaint before the Bihar Public Grievance Redressal Officer under the Bihar Right to Public Grievance Redressal Act, 2015 (hereinafter referred to as the 'Act of 2015') against the petitioner wherein he alleged that the petitioner had been making indecent demands and in this regard, he referred the alleged telephonic conversation between the petitioner and the Ex-Incharge Principal of the Nurses Training Institute (hereinafter referred to as the 'NTI'). The said complaint was initially consigned by the order dated 04.05.2022 by the District Public Grievance Redressal Officer, Gaya vide Annexure 'P/6' to the writ application. Annexure 'P/6' mentions that the matter is being inquired into by the District Magistrate, Gaya and for this purpose, a team has been constituted in which the Additional Collector (Public Grievance Redressal) is a member.



The District Grievance Redressal Officer observed that the complainant may place his case and submissions before the said inquiry team and seek redressal of his grievance.

5. Being aggrieved by and dissatisfied with the order passed by the District Grievance Redressal Officer, the respondent no. 7 moved in First Appeal before the Divisional Commissioner-cum-1st Appellate Authority under the Act of 2015. The 1st Appellate Authority entertained the appeal, proceeded with the same and recommended the Department of Health, Government of Bihar to start stringent disciplinary action against the petitioner. The 1st Appellate Authority recorded that the conduct of the petitioner is against the provisions of the Bihar Government Servant's Conduct Rules, 1976 (hereinafter referred to as the 'Rules of 1976').

Submissions of the Petitioner

6. Learned counsel for the petitioner submits that while the complaint was being examined by a team constituted by the District Magistrate, Gaya and the said Inquiry Officer came to a conclusion that the allegations against the petitioner could not be substantiated in the given facts and circumstances, the 1st Appellate Authority was not competent to entertain an appeal against the order of the District Grievance Redressal



Officer in this matter. It is submitted that in fact the very filing of the complaint before the District Grievance Redressal Forum by respondent no. 7 was only an attempt on his part to harass the petitioner by making him to contest the allegations before multiple forums.

7. Learned counsel submits that the word 'Complaint' has been defined under the Act of 2015 and on a bare perusal of the same, it would appear that any matter relating to conduct of a Government servant which may be dealt with adequately under the Service Rules governing the terms and conditions of his service and the conduct of the Government servant, cannot be the subject matter of complaint as envisaged under the Act of 2015. It is, thus, submitted that neither the District Level Officer nor the 1st Appellate Authority could have entertained the complaint or appeal, as the case may, be in the instant matter.

8. Referring to Annexure 'P5' to the writ application, learned counsel submits that a Three-Member Committee constituted by the District Magistrate, Gaya has held that the allegations made by the Ex Principal, NTI College could not be substantiated. The complaint lodged by the Ex Incharge Principal has, thus, been consigned by the order dated 21.06.2022 with a direction to the Director-in-Chief (Nursing)



for appropriate action.

Submissions of the State and Respondent No. 7

9. Learned counsel for the State as well as learned counsel for respondent no. 7 have opposed this writ application. In course of their submissions, however, they are unable to demonstrate that the kind of complaint made against the petitioner could have been brought before the authorities constituted under the Act of 2015 and the rules framed thereunder. Learned counsel for respondent no. 7 submits that he had brought the matter before the authorities under the Act of 2015 to expose the misdeeds of the petitioner.

Consideration

10. Having heard learned counsel for the parties and on perusal of the records, this Court finds that in this case, respondent no. 7 has made a complaint with regard to the conduct of the petitioner. He has alleged that the petitioner had indulged in indecent talks with the Ex Incharge Principal and that should be inquired into. In fact, an inquiry was already constituted by the District Magistrate, Gaya in the matter. In the meantime, the respondent no. 7 filed a complaint before the Public Grievance Redressal Officer under the Act of 2015.

11. The word 'Complaint' has been defined under



Section 2(a) of the Act of 2015 which reads as under:-

“2(a) "**complaint**" means any application made by a citizen or a group of citizens to a Public Grievance Redressal Officer for seeking any benefit or relief relating to any schemes, programme or services run in the State by the State Government or in respect of failure or delay in providing such benefit or relief, or regarding any matter arising out of failure in the functioning of, or violation of any law, policy, service, programme or scheme in force in the State by a public authority but does not include grievance relating to the service matters of a public servant, whether serving or retired, or relating to any matter in which any Court or Tribunal has jurisdiction or relating to any matter under Right to Information Act, 2005 (Central Act No. 22 of 2005) or services notified under the Bihar Right to Public Services Act, 2011;”

12. On a bare reading of the definition of the word ‘complaint’, it is crystal clear that a complaint with regard to the service matters of a Public servant cannot be brought under the purview of the definition, in such circumstance, the complaint made by respondent no. 7 could not have been entertained by the Public Grievance Redressal Officer.

13. This Court further finds that in view of the submissions of the petitioner that the inquiry has already been constituted in the matter, the Divisional Commission-cum-1st Appellate Authority, despite knowing the fact that the inquiry had already been constituted went on making observations against the conduct of the petitioner and at one stage, held that



the conduct of the petitioner is in violation of the Rules of 1976 for which he is liable to be proceeded against. He recommended disciplinary action against the petitioner to the Additional Chief Secretary, Department of Health, Government of Bihar.

14. Considering the facts of the case, the pleadings and the law on this subject, this Court is of the considered opinion that the Divisional Commissioner has committed a gross error in recording a finding of guilt against the petitioner holding his conduct against the Rules of 1976. The Divisional Commissioner was neither the Inquiry Officer nor the Disciplinary Authority of the petitioner.

15. In such circumstances, by usurping the jurisdiction under the Act of 2015, he could not have travelled so long to record a finding of guilt against the petitioner. He has further erred in making a recommendation for initiation of disciplinary proceeding to the Additional Chief Secretary, Government of Bihar. Such directions are not within his power.

16. To this Court, it appears that he has exceeded his authority for which he has been conferred with certain powers under the Act of 2015. The impugned order is, therefore, bad in law and is liable to be set aside. Accordingly, the order as contained in Annexure 'P6' and Annexure 'P10' passed by the



Public Grievance Redressal Officer and the Divisional Commissioner-cum-1st Appellate Authority respectively are hereby quashed and cancelled.

17. At this stage, this Court would make it clear that the quashing of the orders of the authorities under the Act of 2015 would not be an impediment in the way of the competent authority in taking independent view of the matter in accordance with law.

18. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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