

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3004 of 2016

Arising Out of PS. Case No.-345 Year-2015 Thana- FATUA District- Patna

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Ajay Kumar son of Ram Chandra Prasad, resident of Village- Gorhochak,
P.S.- Fatuha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Director General, Vigilance Investigation Bureau Patna, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Advocate
	:	Mr. Rajeev Kumar, Advocate
For the Opposite Party/s	:	Mr. Pranav Kumar, APP
For the Vigilance	:	Mr. Arvind Kumar, Spl.PP.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 29-04-2024

I.A. No. 01 of 2019

Present petition was filed to amend the pleadings and reliefs for quashing order and cognizance dated 10.02.2017/27.02.2017 for the reason as stated in the petition itself.

2. I.A. No. 01 of 2019 is allowed and same being disposed of, accordingly.

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3. Heard learned counsel for the petitioner and learned counsel for the respondents.



4. The present quashing petition has been preferred to quash the order dated 10.02.2017/27.02.2017 passed in Fatuaha P.S. Case No. 345 of 2015, where learned Judicial Magistrate, Patna City took cognizance for the offence punishable under Sections 406, 420 and 120-B of the Indian Penal Code against the petitioner.

5. From the crux of complaint petition as it appears from the FIR is that the informant filed a written report on 21.07.2015 addressed to the Station House Officer, Fatuha Police Station in the light of order passed by the Hon'ble High Court in C.W.J.C. No. 15459 of 2014 dated 18.05.2015 and Vigilance Enquiry No. B.A.C. 08 of 2015, alleging therein, inter alia that the petitioner was produced before the Committee of Employment Unit of Nagar Panchayat, Fatuha, where Certificate of petitioner for M.A. (Master of Arts) in the subject of History vide certificate no. MA(His)- 00010-492, Roll No. 080051235, Registration No.252446,



Session of 2010, First Division, from Nalanda Open University, found fake after verification from the aforesaid university branch. Thereafter Mahesh Kumar, Police Inspector, Vigilance Investigation Bureau lodged the present case.

6. It is submitted by learned counsel for the petitioner that one of the learned Division Bench of this Court, while deciding the issue on larger scale through C.W.J.C. No. 15459 of 2015 vide order dated 02.06.2015 directed the Education Department, Govt. of Bihar, to publish a notice with effect that any teacher in any category secure appointment on the basis of fake and fabricated certificate, if submit his resignation within 15 days of the notice, which would be accepted by the education department and no criminal proceeding would be initiated against such teacher and also no recovery of amount be made, which already paid.

7. It would be apposite at this stage to reproduce the order of Hon'ble Division Bench in CWJC



No. 15459 of 2014 dated 22.06.2015 for the better understanding of this case :-

“Mr. Ramakant Sharma, learned counsel for the Vigilance Department, State of Bihar, made certain submissions. From the information, made available by him to this Court, we find that the progress on the part of the Vigilance Department is far from satisfactory, and we have got our own doubt whether the order passed by us is being utilized to regularize the otherwise fake certificates for obvious reasons. Unfortunately, the state of affairs in Bihar is such that one finds it difficult, from where to start. When the Hon’ble Education Minister went in public and said that about twenty five thousand teachers have been appointed on fake certificates, the Vigilance Department has presented before us the picture that only three out of six thousand were not found to be not fit and are contemplating some action against them.

Mr. Dinu Kumar, learned counsel for the petitioners brought to our notice that on the one hand the State pleaded shortage of personnel for verification of the certificates and on the other hand ‘Barh Chala Bihar’ programme is floated involving



not only hundreds of employees of all categories, but also expenditure of several crores of rupees and large number of vehicles, fitted with modern equipment, to display the progress.

We have already indicated the harm that a teacher appointed on fake certificate can cause to the students as well as the society, particularly when he is assigned the duties in the elections.

Having regard to the magnitude of the fraud involved, we propose to give general amnesty to persons, who come forward voluntarily, as a first step.

We direct the State, through the Education Department to publish a notice to the effect that in case any teacher of whatever category, has secured appointment on the basis of fake or fabricated certificates, submits his resignation within fifteen days from the date of notice, it would be accepted and no proceeding would be initiated against him-either for prosecution or for recovery of the amount already paid. If on the other hand, any teacher after this general amnesty is found to have secured appointment on the basis of fake and fraudulent certificates, he would not only be subjected to the



prosecution for offence of cheating etc., but the amount paid to him shall be recovered, if necessary ,by selling his properties, apart from disqualifying him from any employment, whatever, in the organizations of the State.

The State shall ensure that this notice is published in the print and electronic media within two days. The District Education Officer shall also ensure that a copy of the notice is displayed in every school maintained by the Government.”

8. While travelling over the argument learned counsel submitted that time as granted by the aforesaid decision of Division Bench of this Court was further extended for two weeks’ through order dated 14.07.2015 annexed as annexure 3, which is as under:-

“The Additional Director General of Vigilance and the Principal Secretary, Education Department, Govt. of Bihar, have appeared before this Court.

Heard Sri Lalit Kishore, learned Principal Additional Advocate General and other counsel appearing in the matter.



It is brought to our notice that about 100 certificates of qualification submitted by the teachers at various places have been found to be fake so far, and the information as regards others is awaited from the respective institutions. It is also stated that more number of officers have been entrusted the work of verification of certificates. A request is also made for extending the amnesty given by this Court.

Another aspect is that quite large number of Librarians are also said to have been appointed on the basis of fake certificates. The present enquiry shall also take into its fold, the appointment of Librarians, and so would be the amnesty. We extend the amnesty, by two weeks from today.”

9. In the aforesaid background, it is submitted that last date to resign was 29.07.2015, where petitioner submitted his resignation on 24.07.2015. It is pointed out that Department of Vigilance and Director of Secondary Education, Bihar both admitted through their counter affidavit that



resignation of petitioner was submitted during valid extended period of amnesty scheme as directed by the Division Bench of this Court.

10. Learned counsel appearing for the Dept. of Vigilance duly assisted by learned APP for the State, fairly conceded the aforesaid submission and facts through their counter affidavit.

11. In view of aforesaid factual and legal discussions, where petitioner submitted his resignation from the post of teacher well within extended time period of amnesty scheme, therefore he appears entitled for the benefit i.e., not to be prosecuted for any criminal offence, arises thereof.

12. Accordingly, impugned order of cognizance dated 10.02.2017/27.02.2017 with all its consequential proceedings, *qua*, petitioner arising thereof as passed in Fatuaha P.S. Case No. 345 of 2015, pending before learned Judicial Magistrate, Patna City is hereby quashed and set aside.



13. The application stands allowed.

14. Let a copy of this judgment be sent to
learned Trial Court, immediately.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	01.05.2024
Transmission Date	01.05.2024

