

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8195 of 2022

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Raj Kumar Yadav S/o Shankar Prasad Yadav Resident of 51A, Mother Tresha Marg, North Srikrishnapuri, P.S. S.K. Puri, District-Patna at Present Posted as Deputy Secretary, Industry Department, Govt. of Bihar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, General Administrative Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
4. The Director, I.C.D.S. Govt. of Bihar, Patna.
5. The Under Secretary, General Administrative Department, Govt. of Bihar, Patna.
6. The Collector, Siwan.
7. The Addl. Collector-Cum-District Public Grievance Redressal Officer, Siwan.
8. The Lokayukta, Bihar through its Secretary, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Yadav, Advocate
For the State	:	Mr. GA-7
		Mr. Abhinav Ashok (AC to GA-7)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 29-01-2026

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed for the
following relief/s:-

*“I. For quashing the order passed by
Hon'ble Lokayukta on 9.7.2020 in
comp. No.1/Lok(Kalyan)/8 of 2018
by which direction to initiate a
departmental proceeding against the
petitioner, competent authority will*



take appropriate action in light of observation made in afore mention order dated 20.2.2020, the office of Director, ICDS shall be under obligation to apprise the Institution of Lokayukta as to the final outcome of the departmental proceeding.

II. Further to set aside the consequential order dated 18.1.2022 by general Administrative Department by which two increment was stopped with non cumulative effect and also warning for 2017-18.

III. And also set aside the order dated 27.4.2022 by which review petition was also rejected.”

3. Learned counsel for the petitioner submits that the said order dated 09.07.2020 in Comp. No. 1/Lok (Welfare) 8/2018 passed by the Lokayukta is absolutely bad in law, due to the reason that there is a gross violation of section 27 of the Bihar Lokayukta Act, 2011 (Act No. 22 of 2011) (hereinafter referred to as ‘Act of 2011’). He submits that the Lokayukta cannot recommend to the competent authority for initiation of the disciplinary proceeding under the rules of disciplinary proceeding applicable to the public servant without conclusion of enquiry or investigation. He submits that here in the present



case, section 27 of the Act of 2011 creates bar and the decision taken by the Lokayukta recommending the petitioner's matter being a public servant, before the disciplinary proceeding, is absolutely bad in law. He further submits that following the order passed by the Lokayukta, the Disciplinary Authority has taken action in which minor punishment has been imposed and subsequently, the said minor punishment has been approved by the Reviewing Authority which is also bad in law.

4. In support of his argument, learned counsel for the petitioner relied on a judgment in case of ***Bipin Bihari Singh Vs. The State of Bihar & Ors.*** passed in ***C.W.J.C. No. 18053 of 2019*** in which *vide* order dated 03.06.2020, it has been categorically held that the Lokayukta is certainly not a super executive empowered to supervise/control functionings of the executive and issue commandments to various functionaries asking them to discharge their duties in a particular manner. Further, the Lokayukta does not have any power of judicial review over administrative action, akin to the powers of the High Court under Article 226 of the Constitution of India. Therefore, counsel submits that according to him, the recommendation made *vide* order dated 09.07.2020 by which the matter was referred for initiation of departmental proceeding



is absolutely bad in law. He submits that since, the first order passed by the Lokayukta is bad in law and is in gross violation of section 27 of the Act of 2011, therefore, any further action based on the order dated 09.07.2020 passed in Comp. no. 1/Lok (Kalyan)/8 of 2018 shall automatically becomes bad in law and therefore, all the impugned orders be set aside.

5. Learned counsel for the State, on the other hand, submits that the law under the Act of 2011 is very much clear that the Lokayukta cannot permit for departmental proceeding being a super executive, rather, the law itself makes provision that only after conclusion of enquiry or investigation, though, Lokayukta can take decision under section 27 of the Act of 2011 for initiation of the departmental proceeding by the competent authority. He submits that here in the present case, *vide* order dated 09.07.2020, it become crystal clear that the Collector, Siwan had constituted an enquiry *vide* his order contained in Letter no. 507 dated 09.07.2019 by Three Men Committee consisting of Additional Collector, Siwan, the District Public Grievance Officer, Siwan and Sub-Divisional Public Officer, Siwan, who upon examine all the documents have reached on the conclusion that the present petitioner being the D.P.O, Siwan was found to have committed a series of illegality and in fact,



such action also amounts to committing criminal offence inasmuch as he had pressurized his peon to prepare a forged and fabricated service report. In this regard, a detailed discussion taken place and lastly by the said order, the matter was recommended for initiation of the departmental proceeding by the competent authority. Counsel submits that in this view of the matter, there is a true compliance of section 27 of the Act of 2011, and therefore, the further action following a lawfule legal order of the Lokayukta are also valid in the eye of law.

6. Upon hearing the parties and upon going through the record, particularly, the provision of law i.e. section 27 of the Bihar Lokayukta Act, 2011 which is very much clear and states as follows:-

“27. Action on inquiry in relation to Public Servants not being Chief Minister or Ministers or Members of the State Legislature.

(1)Where after the conclusion of the inquiry or investigation, the findings of the Lokayukta disclose the commission of an offence under the Prevention of Corruption Act, 1988 by a public servant referred to in clause (d), (e), (f) or (g) of sub-section (1) of section 16, any officer



authorized by Lokayukta shall-

(a)file a case in the Special Court and send a copy of the report together with its findings to the competent authority; and

(b)recommend to the competent authority for initiation of disciplinary proceedings under the rules of disciplinary proceedings applicable to such public servant;

(c)provide a copy of the report to the public servant or his representative;

(2)The competent authority shall, having regard to the recommendations of the Lokayukta within a period of thirty days of the receipt of recommendation under clause (b) of sub-section (1), initiate disciplinary proceedings against the delinquent public servant accused of committing offence under the Prevention of Corruption Act, 1988 and forward its comments on the report, including the action taken or proposed to be taken thereon, to the Chairperson ordinarily within six months of initiation of such disciplinary proceedings.”

7. As per the above provision, it is well within the



power of the Lokayukta that the Lokayukta shall file a case in the Special Court and send a copy of the report together with its finding to the competent authority and be recommend to the competent authority for initiation of disciplinary proceeding under the rule of disciplinary proceeding applicable to said public servant and provide a copy of the report to the public servant or his representative.

8. Here in the present case, admittedly, *vide* order dated 09.07.2020, a reasoned order has been passed by the Lokayukta and upon conclusion of the Three Men Committee report, the Lokayukta has reached on the conclusion and with a view to power so vested in him under section 27 of the Act of 2011, has recommended the case of the petitioner for departmental proceeding by the competent authority and the said competent authority has further passed order of punishment completely in accordance with law. The order passed in case of ***Bipin Bihari Singh (supra)***, shall not help the petitioner in any manner, due to the reason that finding of the Hon'ble Co-ordinate Bench of the Court indicates that the Lokayukta does not have any power of judicial review over administrative action, rather, under section 27 of the Act of 2011, only provision which enables the institution of Lokayukta to make



recommendations to the competent authority for initiation of disciplinary proceeding upon recording a finding which discloses commission of an offence by a public servant punishable under the Prevention of Corruption Act, 1988. And only after such finding as per the order dated 09.07.2020, such recommendation has been made by the Lokayukta in exercise of power under section 27 of the Act of 2011 to initiate a departmental proceeding against the delinquent officer.

9. In this view of the matter, this Court is of the opinion that the order passed by the Lokayukta dated 09.07.2020 in Comp. No. 1/Lok (Kalyan)/8 of 2018 is completely in accordance with law and there is no need of any interference in this matter.

10. Hence, with the aforesaid observation, this writ petition stands dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
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