

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22497 of 2018

Raja Jha S/o Sri Baidy Nath Jha resident of Village- Bina Babhangama, P.S+District- Supaul at Present Road No. 01, Urja Gram near Shyamal Hospital Khajpura, B.V. College, Patna,Bihar- 800014.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Special Director, Secondary Education, Sanskrit Education Department, Government of Bihar, Patna
3. Bihar Sanskrit Shiksha Board through its Secretary, Behind Harding Road, House No. 17, (Near Chitkohra Pool), Patna
4. The Chairman, Bihar Sanskrit Shiksha Board, Behind Harding Road, House No. 17 (Near Chitkohara Pool), Patna
5. The Secretary, Bihar Sanskrit Shiksha Board, Behind Harding Road, House No. 17 (Near Chitkohara Pool), Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bam Bahadur Jha, Adv
For the Respondent/s : Mr.Smt. Binita Singh- SC-28

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
CAV JUDGMENT

Date : 16-10-2020

Heard the parties in virtual Court.

2. Perused the pleadings.

3. This application, under Article 226 of the Constitution of India, seeks for issuance of certiorari quashing order contained in Memo No.3751 dated 10.10.2018 passed by respondent No.3-the Secretary of Bihar Sanskrit Shiksha Board whereby the petitioner was put under suspension and the departmental proceeding was initiated, framing the charges in Proforma- 'Ka'.



4. The background of the proceeding against the petitioner is that in a writ petition bearing (CWJC No.10951 of 2015)a Bench of this Court by order dated 27.06.2016 directed C.B.I. investigation in the matter of appointment of 73 Gramin Dak Sevak during the period 2008-13 in Muzaffarpur Postal Division on the basis of fake and forged Madhyama marksheet. Eight R.C. cases were registered. One of them was R.C.No.-12(A)/2016 Pat. During investigation of the aforesaid R.C.case, it revealed that officials of one of the schools namely Krishnadev Niranjan Dr. Jai Narayan Sharma Sanskrit High School, Patahi, Muzaffarpur in a conspiracy, accepted forms of Madhyama examination for the period 2005-09 from the students and their fee was also collected in unauthorized manner. On receipt of the aforesaid anomaly, R.C.-1A/2017 Pat. was registered on 18.01.2017. The S.P., C.B.I. vide his letter dated 04.04.2018 addressed to the Chairman of Bihar Sanskrit Shiksha Board (respondent No.4) reported that during investigation, sufficient material came on the record to initiate departmental proceeding for major punishment against three persons including the petitioner who were Assistants in Bihar Sanskrit Shiksha Board as they had allowed backdoor entry of students. The charges framed are part of the impugned order.



5. The impugned order has been challenged on the ground that Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 was not applicable in the case of employees of the Sanskrit Shiksha Board nor there is any other Rule governing the service condition regulating the area. Therefore, the impugned order has been passed without jurisdiction. The impugned order has further been challenged on the ground that the action has been taken on the recommendation of the C.B.I. Hence, the impugned order suffers from non-application of its own mind by the competent authority.

6. The petitioner has admitted that the Board used to adopt State Government's Rule relating to payment of gratuity, leave encashment and benefit of A.C.P. schemes, for its own employees.

7. No institution can run without a Service Rule. The impugned order reveals that Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and Amendment Rules 2007 were applicable and under those Rules action has been taken. The petitioner has admitted that some beneficial provisions of the State Govt. for its employees have been given to the employees of the Bihar Sanskrit Shiksha Board also. Hence, they cannot claim immunity from the Disciplinary Proceeding Rule.



Therefore, there is no substance in the submission that no Disciplinary Rule was applicable in the matter of employees of the Bihar Sanskrit Shiksha Board.

8. So far second ground of challenge that the competent authority has not applied its own mind and has acted on the recommendation of the C.B.I. is concerned, a re-look on the impugned order would be necessary which reads as follows:

**“Office of the Bihar Sanskrit Shiksha Board, Patna
17, Back Harding Road, Patna-800001.**

Office Order

Memo No:-01/estb/06/2018. Order No.... Patna, Dated...

Vide this office letter No.966 dated 21.06.2017 and letter No.947 dated 20.04.2018, Sri Raja Jha, Assistant, was show caused. In pursuance thereof, Sri Raja Jha submitted his statement of defence dated 04.05.2018 which is not acceptable. Superintendent of Police, C.B.I., Patna vide his letter No.1675 dated 04.04.2018 submitted, allegations against Mr. Raja Jha, to the Chairman, Bihar Sanskrit Shiksha Board. Under whose order (Mr. Jha) was ordered to be put under suspension and charges in departmental proceeding were framed in Form-‘Ka’ under Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and amended Rules, 2007.



During suspension period, under Rule 10 of the 2005 Rules, Mr. Jha would be entitled for subsistence allowance. During suspension period, his posting would be at the Headquarter Examination Controller, Bihar Sanskrit Shiksha Board, Patna.

Sd/-
(Anil Kumar)
Secretary
Bihar Sanskrit Siksha Board, Patna.”

9. From perusal of the impugned order, it is evident that action has not been taken only on the recommendation of the S.P., C.B.I. rather the competent authority has applied its mind and accepted the allegations which were brought on the record during investigation of the case by the C.B.I. for initiating the departmental proceeding. Moreover the Court exercising jurisdiction of judicial review, cannot examine, the sufficiency of the reasons for satisfaction of the competent authority especially when it is supported by material on the record.

10. Learned counsel for the petitioner has placed reliance on the judgment of this Court dated 03.06.2020 in **CWJC No.18053 of 2019 Bipin Bihari Singh Vs. The State of Bihar & Ors.** In the case aforesaid, the question of law was competency of the Office of Lokayukta to ask for initiation of disciplinary proceeding even if there was no material to make out a case under



Prevention of Corruption Act against the petitioner. The Court held that Lokayukta has no jurisdiction under Article 226 of the Constitution of India to issue Mandamus. Moreover, there was no material to substantiate any allegation under Prevention of Corruption Act. The present case is distinguishable inasmuch as the competent authority has exercised jurisdiction vested in it to pass the impugned order and the impugned order is based on material on the record. Therefore, I do not find any reason to interfere with the impugned order.

11. Accordingly, this writ application stands dismissed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	13.10.2020
Uploading Date	16.10.2020
Transmission Date	

