
(2011) 08 PAT CK 0183
In the Patna High Court
Case No : CWJC No. 2383 of 2007

Khawaja Gholam Rasool

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 25-08-2011

Acts Referred:

Citation : (2012) 1 PLJR 150

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Judgement

V.N. Sinha, J.—Heard learned counsel for the petitioner and the State.

2. Petitioner superannuated while serving as Principal, Government Teachers Training College, Saharsa with effect from 31.1.2011. Earlier he had filed this writ petition praying inter alia to quash the resolution of the Government issued from the Secondary, Primary and Adult Education Department bearing Memo No. 496 dated 28.6.2001, Annexure-1, whereunder a proceeding was initiated against him on the basis of the contents of Vigilance P.S. Case No. 28 of 1991 dated 15.7.1991 alleging illegal appointments and other irregularities committed by the petitioner while he served as District Superintendent of Education, Sahebganj, duly detailed in the First Information Report. Aforesaid Charge No. 2 was further added under Memo No. 1 dated 3.1.2003, Annexure-1/A, perusal whereof also indicates that the said Charge No. 2 was also connected with the allegations set out in the First Information Report of Vigilance P.S. Case No. 28/91 dated 15.7.1991. Earlier in the light of the contents and allegations set out in the First Information Report of Vigilance P.S. Case No. 28 of 1991 dated 15.7.1991 another departmental proceeding was initiated against the petitioner under Memo No. 85 dated 8.3.1999, Annexure-5. In response to the said charge-sheet petitioner submitted his written defence before the Enquiry Officer, who submitted report dated 6.4.2000, Annexure-7 exonerating the petitioner of the charges levelled against him under charge-sheet dated 6.3.1999 annexed with the resolution of the Government dated 8.3.1999. It is thus evident that the

allegations in the earlier and the present charge-sheet is based on the contents of the First Information Report of Vigilance P.S. Case No. 28/91 dated 15.7.1991. It is, thus, quite evident that after petitioner was exonerated with reference to the same charges in the earlier proceeding initiated under resolution dated 8.3.1999 under report dated 6.4.2000 the impugned resolution dated 28.6.2001, Annexure-1 was issued which was further amended under resolution dated 3.1.2003, Annexure-1/A. Petitioner challenged the aforesaid two resolution dated 28.6.2001, 3.1.2003 initiating subsequent proceeding on the basis of the contents of the same First Information Report of Vigilance P.S. Case No. 28/91 by filing C.W.J.C. No. 15256/2001. Aforesaid writ petition was disposed of under orders dated 15.2.2005, Annexure-8 series directing the departmental authorities to conclude the proceeding initiated under resolution of the Government dated 28.6.2001 and amended under resolution dated 3.1.2003 within a period of three months from the date of receipt/production of a copy of the order dated 15.2.2005. Even after receipt of the copy of the order of the High Court dated 15.2.2005 the Enquiry Officer did not proceed with the matter and allowed the proceeding initiated under resolution dated 28.6.2001, 3.1.2003 to remain pending. After passage of about two years from the earlier order of the High Court dated 15.2.2005 petitioner filed the present writ case making the same prayer which was made by him in the earlier writ petition asking the High Court to quash the proceeding as even after earlier exoneration of the petitioner by the Enquiry Officer the second proceeding was initiated but the same is not being taken to its logical conclusion and petitioner is languishing under the hanging sword of the proceeding.

3. This petition also remained pending for over four years in the High Court. Even during the pendency of the writ petition the authorities have not proceeded to conclude the proceeding as in the counter affidavit filed by the authorities not even a word has been stated about the disposal of the proceeding. It is, thus, quite evident that authorities are only interested in keeping the sword of the proceeding hanging on the petitioner. Such attitude of the authorities cannot be permitted as Government servant has to be allowed reasonable threat free space for discharging his duties. Petitioner is labouring under the allegations right from the lodging of Vigilance P.S. Case No. 28/91 on 15.7.1991. After eight years of the lodging of the First Information Report the first proceeding was initiated under resolution dated 8.3.1999 in which petitioner was exonerated under report dated 6.4.2000, whereafter the present proceeding was initiated on 28.6.2001 which was amended on 3.1.2003. It is, thus, evident that he is labouring under the allegations set out in the First Information Report dated 15.7.1991 and the proceedings dated 8.3.1999, 28.6.2001 and 3.1.2003 for over two decades. In the circumstances, I am satisfied that he has been harassed on account of the pendency of the aforesaid proceeding. Accordingly, the proceeding initiated under resolution dated 28.6.2001 as amended under resolution dated 3.1.2003 is quashed. It goes without saying that if any charge-sheet has been submitted by the Investigating Agency, may be by the Vigilance Department or the C.B.I.,

same shall proceed in accordance with law.

4. The writ petition is, accordingly, disposed of.