IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1014 of 2022

CNR No. BRHC010025222022

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Vijay Das Sonof Siddheshwar Das Resident of K.V. Bhawan, Rupashpur East Part, Bhatta Per, South of Shiv Mandir, P.S. - Rupaspur, District- Patna.

... ... Petitioner

Versus

1. The State of Bihar through Additional Chief Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Special Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Special Works Officer, Food and Consumer Protection Department, Government of Bihar, Patna.
4. The Deputy Director, Food, Patna Division, Patna.
5. The District Magistrate, Bhojpur, Ara.
6. The District Supply Officer, Bhojpur, Ara.
7. The ADSO, Bhojpur, Ara.
8. The District Supply Officer, Khagaria.
9. The Lokayukta Bihar, Patna through its Additional Secretary, Lokayukta Office, 4 Kautilya Marg, Patna.
10. The Additional Secretary, Lokayukta Office, 4 Kautilya Marg, Patna.
11. The Chief Secretary, Bihar, Patna

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 1788 of 2024

CNR No. BRHC010025222022

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Vijay Das Son of Siddheshwar Das, Resident of - K.V. Bhawan, Rupashpur East Part, Bhatta Per, South of Shiv Mandir, P.S. - Rupaspur, District - Patna.

... ... Petitioner

Versus

1. The State of Bihar through Additional Chief Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Special Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
4. The Special Works Officer, Food and Consumer Protection Department, Government of Bihar, Patna.

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5. The Deputy Director, Food and Consumer Protection Department, Patna Division, Patna.
6. The District Magistrate, Bhojpur, Ara.
7. The District Supply Officer, Bhojpur, Ara.
8. The S.D.O. Bhojpur, Ara.
9. The District Supply Officer, Khagaria.
10. The Enquiry Officer-Cum-Deputy Director, Food and Consumer Protection Department, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :
(In Civil Writ Jurisdiction Case No. 1014 of 2022)
For the Petitioner/s : Mr. Ranjeet Kumar, Adv.
Mr. Rajnish Prakash, Adv.
Mr. Rohan Sinha, Adv.
Mrs. Aditi Sahay, Adv.
Ms. Lakshmi Kumari, Adv.
For the Respondent/s : Mr. Dr. Maurya Vijay Chandra, AAG-2
Mr. Gaurav Govida, AC to AAG-2
Mr. Vikas Kumar, AC to AAG-2
Ms. Ritambhara, AC to AAG-2
(In Civil Writ Jurisdiction Case No. 1788 of 2024)
For the Petitioner/s : Mr. Ranjeet Kumar, Adv.
Mr. Rajnish Prakash, Adv.
Mr. Rohan Sinha, Adv.
Mrs. Aditi Sahay, Adv.
Mr. Raghwanand, AAG-14
Mr. Shubham, AC to AG-14

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CORAM: HONOURABLE MR. JUSTICE ANSUL

ORAL ORDER

13 19-11-2026 Two writ petitions CWJC No. 1014 of 2022 and CWJC No. 1788 of 2024 have been filed.

2. The first writ petition CWJC No. 1014 of 2022 has been filed for setting aside the order dated 07.05.2021 passed by Hon'ble Lokayukta Bihar, Patna in Complaint Case No. 5/Lok (Supply) 10/2011 and also setting aside the order contained in Letter No. 8074 dated 27.08.2021 issued by the Additional Secretary to Hon'ble Lokayukta whereby a direction has been

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issued to take action. The consequential order is also under challenge.

3. Another writ petition bearing CWJC No. 1788 of 2024 was filed by the same person for setting aside the enquiry report as contained in letter no. 93 dated 30.06.2022 submitted by the Enquiry Officer-cum-Deputy Director, Food and Consumer Protection Department, Patna Division, Patna as well as the order of punishment as contained in Memo No. 3716 dated 23.08.2023 whereby 5% of the pension of the petitioner has been withheld.

4. The first case was filed in the year 2022 whereas the second case was filed in the year 2024. The petitioner was posted as Assistant District Supply Officer (A.D.S.O.) Bhojpur with additional charge of District Supply Officer from 07.07.2011 to 30.08.2014. The Lokayukta is respondent no. 9 and its Additional Secretary is respondent no. 10. On 15.06.2026 time was granted to learned counsel for the Lokayukta to obtain instructions. On 13.07.2026 the Court was informed that at present there is no Lokayukta.

5. Considering the continued absence of assistance to resolve the dispute, the predecessor Court vide order dated 13.07.2026 directed that the Chief Secretary, Government of

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Bihar be added as party respondent no. 11. The State was also directed to communicate the order to the office of the Chief Secretary, Government of Bihar who was directed to file a counter affidavit as to why the post of Lokayukta was vacant because continuation of vacancy was restraining the flow of administration of justice. The Court directed the Chief Secretary, Government of Bihar to look into the matter on top priority and do the needful within the earliest possible time.

6. The institution of Lokayukta is not new to this State. The Administrative Reforms Commission was appointed by the President of India on 05.01.1966 and it submitted its interim report on 14.10.1966. It recommended the setting up of the authorities of Lokpal and Lokayukta. The State of Bihar enacted the Bihar Lokayukta Act in the year 1973. It was replaced by the Bihar Lokayukta Act, 2011 and Section 59 of the Act of 2011 repeals the earlier Act. Section 3 provides for a Chairperson and two Members. Section 15 charges the expenses of the Lokayukta on the Consolidated Fund of the State. The State has thus had this institution by statute for more than fifty years.

7. The affidavit as directed was filed on 03.08.2026. The first 14 pages of the affidavit of the Chief Secretary,

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Government of Bihar, containing 11 paragraphs, deal with the order of the Court and the relief sought by the petitioner. From para 12 onwards it has dealt with the Act and the procedure prescribed for appointment of Lokayukta. Para 13(1) states that the posts of Chairperson and Members of Bihar Lokayukta had fallen vacant during the years 2021 and 2022. This Court is constrained to note that even the dates on which the posts fell vacant have not been mentioned in the affidavit. They have to be gathered from the letters annexed as Annexure R/A, according to which the posts of Members have been vacant since 17.05.2021 and the post of Chairperson since 13.02.2022. Thereafter, the meeting of the Selection Committee and the rejection of the candidates recommended by the Search Committee have been referred to. Reference has also been made to letters of 2025 reiterating the request for early constitution of the Search Committee. Para 16 states that upon constitution of a fresh Search Committee, consideration, shortlisting of suitable names and thereafter finalisation of recommendation the matter shall be placed before the General Administration Department, Government of Bihar. Para 17 makes a statement that the State Government is fully conscious of the need for expeditious filling of the posts of Chairperson and Members of Lokayukta.

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8. There is nothing at all in the entire affidavit to even remotely show or suggest the reason for non-appointment of Lokayukta for such a long period. The only information that this entire counter affidavit gives is that there was a Selection Committee which constituted a Search Committee and the Search Committee recommended certain names which were rejected by the Selection Committee and thereafter letter after letter has been flowing in all directions but nothing seems to have been done. The affidavit seems to have missed the basic facts of the writ petition like the cancellation of the licence by the petitioner or by the SDO.

9. The first step shown in the affidavit is the meeting of the Selection Committee on 21.06.2023 where a Search Committee was constituted i.e. 25 months after the first vacancy. For these 25 months the affidavit does not show a single letter, note or step of any department of the State Government.

10. Para 17 of the affidavit states that the statutory procedure prescribed under the Act has already been initiated and has been diligently pursued by the State Government since the year 2023. Para 18 makes a very interesting statement. It says that continuation of the vacancy is attributable to the

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inherent time consumed by the multi-stage statutory process and not to any indifference or wilful default on the part of the State Government and that the process is being pursued with due diligence and shall be carried to its logical conclusion at the earliest. The only problem with this assertion is that the legislature was aware that the process has several stages and still fixed a time limit of four months in total for the exercise. Section 4(7)(f) of the Bihar Lokayukta Act, 2011 gives three months to the Search Committee and Section 4(8) gives one month to the Selection Committee after that. In para 19 the Chief Secretary has undertaken to apprise this Court of the progress by a supplementary affidavit.

11. Now, the first step as already noted above is of the year 2023 and the first letter of the State Government is dated 18.07.2025. The statute allows four months for that process. A period of five years cannot be called inherent in it. The Chief Secretary was asked why the post is vacant. Out of 66 months his affidavit is silent on 41.

12. Thus, this Court is constrained to record that the affidavit is prima facie evasive. It describes the procedure but does not answer the question which has been asked. The affidavit is not of a subordinate officer. It has been sworn by the

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Chief Secretary who has verified parts of it as true to his knowledge. The officer holding the highest post in the civil administration of the State has been asked a simple question by the Court. The answer is pure evasion. He has answered it with four letters of an Under Secretary and has called that the diligence of the State. He has stated on oath that there has been no inaction whereas his own annexures show no step by the State for 41 months. An affidavit of this kind was not expected from the head of the civil service of the State and the Court expresses its displeasure. The consequence of such delay is before the Court. An order passed by a Member of Lokayukta is under challenge. A retired officer has lost a part of his pension on that order. The institution which passed the order cannot instruct its counsel because it has no Chairperson and no Member. Time was granted on 15.06.2026 to obtain instructions and none came. The position is that complaints are pending and the citizens who wish to complain have nowhere to go.

13. This Court is conscious of the fact that CWJC No. 3479 of 2026, a public interest litigation on the vacancy in the office of Lokayukta, was dismissed by a Division Bench of this Court on 09.09.2026 with the observation that no further order was required at that stage. This Court is not dealing with the

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relief of appointment of Lokayukta. It is dealing with a lis where an order of Lokayukta has been challenged. The predecessor Court, for the reason recorded in paragraph 5 above, had to look into the process of appointment so that citizens of the State do not suffer. The order dated 13.07.2026 by which the affidavit was called for stands and has not been challenged. What is being examined is the sufficiency of the affidavit filed under that order. The Chief Secretary of the State is accordingly directed to file a supplementary affidavit in terms of his undertaking within a week. The affidavit shall state with dates and copies of all the relevant documents every step taken by the State Government between 17.05.2021 and 21.06.2023 and between 15.03.2024 and 18.07.2025 towards filling up of the posts. It shall also state the position as on date, including whether the meeting referred to in the letters dated 07.05.2026 and 13.07.2026 of the Bihar Legislative Council has been held. Copies of letter no. 1010(2) dated 15.03.2024 and letter no. 2954(2) dated 19.09.2024 of the Secretary, Bihar Legislative Council shall be annexed.

14. The Chief Secretary, Government of Bihar shall appear in person before this Court on the next date. He shall bring with him the original file of the General Administration

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Department relating to appointment of Chairperson and Members of Bihar Lokayukta from 17.05.2021 onwards. The reasons are being recorded as required by the standard operating procedure laid down by the Hon'ble Supreme Court in State of Uttar Pradesh v. Association of Retired Supreme Court and High Court Judges at Allahabad, 2024 INSC 4, at paragraph 45.

15. The Court is prima facie satisfied that the specific information for the two periods mentioned above has not been provided. The direction for personal appearance is not on account of the stand taken in the affidavit. An affidavit was the first option. It has not served its purpose. The original file is required to be gone through in this Court with the officer who has sworn the affidavit and appearance through video conferencing would not serve that purpose.

16. Let a copy of this order be communicated to the Chief Secretary, Government of Bihar through learned AAG-2 forthwith.

17. List this case on 02.12.2026 at 12:15 P.M.

(Ansul, J)

Siddharth Soni/-

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