

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1478 of 2012

In

Civil Writ Jurisdiction Case No. 12032 of 2011

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Pramod Kumar Rai S/O Shital Rai R/O Village- Jibaria, P.S.- Kalyanpur,
District- Samastipur

.... Appellant

Versus

1. The State Of Bihar
2. The Principal Secretary Panchayt Raj Departemnt, Govt. Of Bihar, Patna
3. The Director, Panchayat Raj Department, Govt. Of Bihar, Patna
4. The Deputy Director Panchayat Raj Department, Govt. Of Bihar, Patna
5. The District Magistrate, Samastipur, District- Samastipur
6. The Sub-Divisional Officer, Samastipur, District- Samastipur
7. The Executive Magistrate, Samastipur, District- Samastipur
8. The Block Development Officer Kalyanpur Block, P.S.-Kalyanpur, District- Samastipur
9. Sunil Kumar Sah S/O Sri Rameshwar Sah R/O Village- Lakhshrampur, P.O.- Jitbaria, P.S.- Kalayanpur, District- Samastipur

.... Respondents

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Appearance :

For the Appellant : Mr. Abhay Kumar Singh, No.1, Advocate.
For the Respondents-State Mr. Gautam Bose (AAG-8), Sr.Advocate.
Mr. Rohit Mishra, Advocate.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

5 13-07-2015 Heard learned counsel for the appellant-writ petitioner

as also the learned counsel for the respondents-State.

2. This letters patent appeal is directed against the order dated 16th July, 2012 passed in C.W.J.C. No. 12032 of 2011, whereunder the learned writ Court has upheld the order of the Principal Secretary, Panchayat Raj Department, Government of

Bihar as contained in memo No. 4338 dated 17.06.2011 removing the petitioner from the post of Mukhiya, Gram Panchayat, Jitwariya within Kalyanpur Block of Samastipur district on the ground of misuse of power as he has been found indulging in various acts of omission and commission.

3. It is submitted on behalf of the appellant-writ petitioner that true it is that he has been found responsible on the basis of the report submitted by the Collector of the district holding the petitioner guilty of the charges which has been considered by the Principal Secretary but the Principal Secretary issued notice dated 29.03.2011 and 27.04.2011 both the notices were not served on the petitioner which fact will appear from paragraph-16 of order of the learned Single Judge. It is further submitted that had the petitioner received the two notices dated 29.03.2011 and 27.04.2011 he ought to have submitted his reply thereto. As the impugned notices were not received by the petitioner he was deprived from challenging the report of the Collector which is deprivation of his right to defend and in violation of Article 14 of the Constitution.

4. We see substance in the submission and accordingly set aside the order passed by the Principal Secretary dated 17.06.2011 directing the writ-petitioner to appear before the

Principal Secretary of the Panchayat Raj Department and submit his reply to the aforesaid second show cause notices dated 29.03.2011 and 27.04.2011 within three weeks from today, whereafter the Principal Secretary shall be obliged to dispose of the matter as early as possible preferably within a period of one month from the date of receipt of reply.

5. It is made clear that this Court has not expressed any opinion on the merits of the charges leveled against the petitioner which shall be exclusively within the domain of the Principal Secretary.

(V.N. Sinha, J)

Abhay/-

(Jitendra Mohan Sharma, J)

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