

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.640 of 2015
IN
Civil Writ Jurisdiction Case No. 1474 of 2015

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Ramagya Singh son of Late Ramprit Singh, Resident of Mohalla- Nehru Nagar,
P.S. - Shri Krishna Puri, District- Patna.

.... Appellant/s

Versus

1. The Patna Municipal Corporation through its Municipal Commissioner, Budh Marg, Maurya Lok , Patna.
2. The Additional Municipal Commissioner, Budh Marg, Maurya Lok, Patna.
3. The Executive Officer, Kankarbag Circle, Patna Municipal Corporation, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. S B K Mangalam
Mr. Vijay Kumar Singh
For the Respondent/s : Mr. Ranjeet Kumar Pandey

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 17-07-2015

The petitioner in CWJC No. 1474 of 2015 filed this Letters Patent Appeal. The writ petition was filed challenging the order dated 28.8.2014, through which the petitioner was placed under suspension. The writ petition was listed on 23.2.2015. Since there was no representation for the petitioner, the learned Single Judge took note of the contentions of the petitioner and disposed of the same by directing that the disciplinary proceedings shall be concluded within three months from the date of the order.

Heard Mr. S B K Mangalam, learned counsel for the appellant and learned counsel for the respondents.

Strictly speaking, the appeal cannot be entertained. The

reason is that the order of the learned Single Judge was passed not on merits but on account of absence of learned counsel for the petitioner. Though it was open for the learned Single Judge to dismiss the writ petition in default, but the writ petition was disposed of by fixing the time limit for conclusion of the enquiry.

Learned counsel for the appellant places heavy reliance on clause 9(7) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. On facts, it is brought to our notice that the charge-sheet has been issued and enquiry officer was also appointed.

In the counter affidavit, it is stated that the appellant is not co-operating in the enquiry.

Having regard to the facts and circumstances of the case, we dispose of the appeal by directing the respondents to conclude the disciplinary proceedings within one month from today. The appellant shall co-operate in the enquiry and shall not remain absent on any date fixed for his appearance. If the proceedings are not concluded within one month, the respondents shall be under obligation to reinstate him. If, on the other hand, the appellant does not co-operate in the enquiry, there shall not be any obligation to reinstate him.

(L. Narasimha Reddy,CJ)

(Anjana Mishra, J)

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