

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9986 of 2013

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1. Sunil Kumar Singh Son Of Late Srinath Singh Dismissed Village Level Worker (Jan Sevak And Panchayat Secretary), Rafiganj Block, P.S. Rafiganj, District - Aurangabad, Resident Of Village - Shivnath Bighaha, P.S. - Madanpur, District - Aurangabad

.... Petitioner

Versus

1. The State Of Bihar Through Commissioner, Magadh Division, Gaya
 2. The District Magistrate, Aurangabad
 3. The District Panchayati Raj Officer, Aurangabad
 4. The Sub Divisional Officer, Aurangabad
 5. The Block Development Officer, Rafiganj, District - Aurangabad

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Amaresh Kumar Singh, Advocate
 For the Respondent/s : Mr. Aditya Nath Pandey, AC to SC 1
 Mr. Madhukar Krishna Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

4 08-01-2016 Heard learned counsel for the petitioner and the State.

The petitioner seeks quashing of the order, dated 19.8.2010 passed by the District Magistrate, Aurangabad dismissing him from service which order was affirmed in appeal on 9.8.2012 passed by the Commissioner, Magadh Division in Service Appeal No.85 of 2010.

The petitioner was appointed in the year 1990 as Village Level Worker at Rafiganj Block. In the year 2007, he was deputed as Panchayat Secretary at Bhaduki Kala Gram Panchayat within Rafiganj Block in the district of Aurangabad. In the year 2007, he



was a Member Secretary of Gram Panchayat Selection Committee for employment of Panchayat Teacher. He was departmentally proceeded for alleged irregularities committed in the selection of Panchayat Teacher. A charge memo dated 18.1.2001 was issued which is contained in Annexure-1. The District Panchayat Raj Officer, Aurangabad was appointed as Conducting Officer. The petitioner submitted his show cause reply on 17.6.2008. In course of departmental enquiry, the petitioner was show caused for another charge on 17.6.2008. The petitioner sought time to file his reply to the same. The Inquiry Officer concluded the departmental enquiry and submitting findings of guilt against the petitioner on 15.10.2008 to the disciplinary authority for follow up action. The District Magistrate cum disciplinary authority while forwarding a copy of findings of guilt vide letter dated 8.9.2009, sought response to the adverse findings recorded in the report. The petitioner denied the charges and submitted his reply to the findings recorded by the Inquiry Officer which was received on 29.9.2009.

The disciplinary authority not being satisfied with the explanation tendered by the petitioner, dismissed him from service on 19.8.2010 and an appeal preferred against the aforesaid order before the learned Commissioner met with same fate. The



petitioner submits that he was not provided any of the documents mentioned in the charge memo. Further more, the Presenting Officer did not appear in the proceeding at any stage. Neither any document was presented nor any witness was examined. In support of his submission, the petitioner has appended a copy of the enquiry proceedings.

A counter affidavit has been filed on behalf of the State. The specific averment of the petitioner has not been controverted in the counter affidavit. The only reply is that the averment made by the petitioner 'is a matter of record'. The counter affidavit does not even controvert the submission of the petitioner that the Presenting Officer ever attended the proceedings. It appears that the disciplinary authority himself figured out the materials against the petitioner from documents which was not even tendered to the petitioner.

In my view, the enquiry conducted by the Inquiry Officer is no enquiry in the eyes of law. It is true that the evidence or proof required for probing such charge would not be of the same standard, as required in a criminal proceeding but nonetheless there has to be some materials exhibit or evidence/tendered to support the charge against a delinquent. All these aspects are lacking in this case. As such I find that there was no enquiry worth

the name. The subsequent orders as such based on the enquiry report are too not sustainable in law and are accordingly set aside. The petitioner would be reinstated in service with liberty to the respondents to proceed afresh in accordance with law.

In the result, this writ application is allowed.

(Samarendra Pratap Singh, J)

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