IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3976 of 2014

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Abhimanyu Singh S/O Late Ram Janam Singh 'Indira Bhawan', Anugrahpuri Colony, P.S.- Rampur, District- Gaya

.... Petitioner/s

Versus

1. The State Of Bihar Through Commissioner-Cum-Principal Secretary, Department Of Commercial Taxes, New Secretariat, Patna
2. Commissioner-Cum-Principal Secretary, Department Of Commercial Taxes, Government Of Bihar, New Secretariat, Patna
3. Additional Commissioner, Department Of Commercial Taxes, Government Of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Parmanand Pd. Nr. Sahi
Mr. Pramod Kumar Singh

For the Respondent/s : Mr. Hari Shankar Roy, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 02-05-2016

The petitioner is posted as Assistant Commissioner, Commercial Taxes, in the Headquarter at Patna Office. He seeks quashing of the Inquiry Report, whereby he has been held guilty of not being vigilant in his official work. He has also prayed for setting aside the 2nd show-cause notice, dated 05.02.2014, issued from the office of Respondent No. 3, seeking his response to the findings recorded by the Inquiry Officer.

The petitioner was proceed on the charge of having assessed a lesser amount from M.P. Udyog Limited Sugar Mills, Majhauliy. Inquiry Officer, on conclusion of the inquiry, found him guilty of not being vigilant in discharging his official works. Consequent upon inquiry report, the disciplinary authority asked petitioner's response vide show-cause notice, dated 05.02.2014. Petitioner states that conclusion of the Inquiry Officer is contrary to the findings recorded by him. The Inquiry Officer in his report noted that the petitioner *suo moto*, reviewed the assessment and made good the loss suffered by the Department by making the assessee to deposit the balance. He submits that since the charge framed against the petitioner itself stands demolished by the findings of the Inquiry Officer, the 2nd show-cause notice was not called for, in the facts and circumstances of the case. He next submits that Section 3(1) of the Bihar Electricity Duty (Amendment) Act, 2002, so far as it provides for payment of duty on the value of energy, has been held ultra virus by a Division Bench in Bihar Sugar Mills Association & others Vrs. State of Bihar & others, dated 16.09.2009, in C.W.J.C. No 4613 of 2003.

Learned counsel appearing for the State submits that the petitioner could take all these points in his reply to the 2nd show-cause notice, dated 05.02.2015, issued by Respondent No. 3.

This Court would agree with the submission of the learned counsel for the State. The petitioner can take all these points which he has taken before this Court, before the disciplinary authority, in his reply to the 2nd show-cause. There could not be any pre-apprehension that the points taken by him could not be entertained. In view of above, the writ application is disposed of with an observation that if the petitioner files his show-cause reply within five weeks from today, the disciplinary authority would consider the same on its own merit without prejudice.

With the direction aforesaid, the writ application is disposed of.

(Samarendra Pratap Singh, J)

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