

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6683 of 2013

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Kamlesh Singh Son Of Late Shiv Bahal Singh Resident Of At + P.O.- Sinha Ghat,
P.S.- Krishnagarh, District- Bhojpur, At Present Sr. Dy. Collector, East Champaran,
Motihari

.... Petitioner

Versus

1. The State Of Bihar Through Principal Secretary, General Administration,
Government Of Bihar, Patna
2. The Principal Secretary, Rural Development Department, Government Of
Bihar, Patna
3. The Deputy Secretary, General Administration, Government Of Bihar, Patna
4. The Additional Secretary, General Administration, Government Of Bihar, Patna
5. The Commissioner, Darbhanga
6. The District Magistrate, Madhubani
7. The Secretary, Bihar Public Service Commission, Bailey Road, Patna

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Mithilesh Kr.Upadhya, Advocate and Mr. Prabhakar Singh, Advocate
For the Respondents	:	Mr. Subhash Pd.Singh, GA 7
For the BPSC	:	Mr. Rajnikant Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 08-02-2016

The petitioner prays for setting aside order, dated 28.12.2011 (Annexure 16) awarding punishment of stoppage of three increments with cumulative effect and bar on promotion for five years. He also prays for setting aside order dated 3.4.2012 (Annexure 18) by which his review petition has also been rejected.

2. The petitioner was posted as Senior Deputy Collector, East Champaran at Motihari. On 27th and 28th December, 2005, the District Level Committee on inspection of the site, observed that the petitioner, in his capacity as Block Development Officer, Bisfi Block, Madhubani illegally allotted Indira Awas to one Rabindra Yadav under the flood rehabilitation Indira Awas Scheme and

General Indira Awas Scheme. The Committee submitted its report on 14.2.2006 to respondent no.4 which formed basis for a regular proceeding against the petitioner under Rule 17 of the Bihar Civil Service Rules, 2006.

3. One of the two charges was that petitioner made wrong allotment of Indira Awas to one Rabindra yadav. It was further alleged that the petitioner adopted lackadaisical approach in supervision of rehabilitation work. On completion of enquiry, the enquiry officer held him guilty of charges, though he found that the petitioner had already cancelled allotment of Indira Awas made to Rabindra Yadav and a sum of Rs.10,000/- allocated to him for repair works, was also recovered. On consideration of enquiry report, the General Administration Department, Government of Bihar vide resolution no. 14247, dated 28.12.2011 awarded following punishment to the petitioner:-

(a) Stoppage of three increments with cumulative effect and

(b) Bar on promotion for five years from due date of promotion.

4. The petitioner submits that the respondents committed error of record in coming to a finding that he cancelled allotment, only when the District Level Committee found that the allotment to Rabindra Yadav was improper. I find substance in the submission of the petitioner. It would appear from Annexure 19 series, that prior to visit of District Level Enquiry Team, the petitioner on

learning that Rabindra Yadav possessed a concrete house, cancelled the allotment way back on 14.12.2005, much prior to report of the District Level Committee on 27th and 28th December, 2005. As such, charge no.1, being not well founded against the petitioner, the enquiry report and findings so far it relates to charge no.1, based on incorrect facts, is accordingly held not proved.

5. Charge no.2 relates to dereliction of duty and lack of vigilance in allotment of Awas under Flood rehabilitation Indira Awas scheme.

6. The petitioner submits that this charge is vague. He was instrumental in instituting FIR against local representatives and others resorting to illegal tactics. I find that the petitioner had initially ordered for allotment of Awas to Rabindra Yadav, which allotment he duly cancelled prior to any direction or an enquiry. Charge no.2 as such is not fully established.

7. As one of the two charges is not found to be proved and the other only partially proved, the matter is remitted to the disciplinary authority for fresh consideration of quantum of punishment in light of observations made above.

8. The writ petition is thus allowed to the extent indicated above.

Shashi.

(Samarendra Pratap Singh, J)

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