

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9455 of 2014**

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Harish Chandra Choudhary Son of Late Ram Naresh Choudhary Resident of Flat  
No.302, Veenashree Apartment, New Punaichak, P.S. Shastri Nagar, District –  
Patna

.... .... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development  
Department, Govt. of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Govt. of  
Bihar, Patna
3. The Director, Primary Education, Education Department, Govt. of Bihar, Patna
4. The Regional Deputy Director of Education, Patna Division, Patna

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Naresh Dikshit, advocate

For the Respondents : SMT.NIVEDITA NIRVIKAR, GA 10

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP  
SINGH**

**ORAL JUDGMENT**

**Date: 08-03-2016**

The petitioner seeks quashing of the order contained in  
memo no. 503 dated 4.4.2014, issued under the signature of the  
Principal Secretary, Directorate of Primary Education dismissing  
him from service in terms of CCA Rules, 2005.

Brief facts of the case are as follows:-

In the year 2007, petitioner was posted as Block  
Development Officer, Nalanda. He was trapped on 14.3.2007  
accepting bribe of Rs.16,000/- from one Lalan Mandal giving rise to  
Patna Vigilance case no. 36 of 2007, dated 14.3.2007 as well as  
initiation of departmental proceeding. On conclusion of  
departmental proceeding, the petitioner was awarded punishment of  
dismissal from service. The petitioner has challenged the criminal  
proceeding as well as the dismissal order on different grounds.

In my view, this case can be disposed of on the limited issue that the 2<sup>nd</sup> show cause notice, dated 14.2.2014 issued under the signature of the Director, Primary Education is in teeth of the decision, reported in 2006(9) SCC 440 (Lav Ligam Vs. the Chairman, ITI and another).

In the aforesaid case, the Hon'ble Apex court observed that the disciplinary authority may or may not accept the view of the enquiry officer but in case the disciplinary authority does not agree with the view of the enquiry officer, the former would have to give his tentative reasons for such disagreement while issuing 2<sup>nd</sup> show cause notice. In the instant case, the enquiry officer exonerated the petitioner of the guilt. However, the disciplinary authority did not accept the view of the enquiry officer and issued 2<sup>nd</sup> show cause seeking petitioner's response without stating tentative reasons for such disagreement. The disciplinary authority ought to have recorded some reasons for disagreeing with the view of the enquiry officer.

In this view of the matter, the 2<sup>nd</sup> show cause notice is not sustainable in law and is accordingly set aside. Consequently, the impugned punishment based on such notice is also set aside with liberty to the respondents to proceed afresh from the stage of issuance of 2<sup>nd</sup> show cause.

Shashi.

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**(Samarendra Pratap Singh, J)**