

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10285 of 2013

Sanjay Kumar Son Of Brajendra Kumar Resident Of Mohalla- Lalu Pokhar, P.S.- Kasim Bazar, District- Monghyr, At Present Circle Officer, Baisa-Cum-Baisi, P.S.- Rauta/Baisee, District- Purnea

.... Petitioner/s

Versus

1. The State Of Bihar through District Magistrate, Patna
2. District Magistrate, Purnea
3. Additional Collector-Cum-Appellate Authority-Cum-Reviewing Authority, Patna
4. Land Reforms Deputy Collector (L.R.D.C.), Baisee, Purnea
5. Sharda Devi Wife Of Late Mahendra Prasad Biswas Resident Of Village- Malharia, P.S.- Baisee, District- Purnea

.... Respondent/s

With

Civil Writ Jurisdiction Case No. 11182 of 2013

Sanjay Kumar S/O Brajendra Kumar Resident Of Mohalla- Lalu Pokhar, P.S.- Kasim Bazar, District- Monghyr, At Present Circle Officer, Baisa- Cum-Baisi, P.S.- Rauta/ Baisee, District- Purnea.

.... Petitioner/s

Versus

1. The State Of Bihar, Through District Magistrate, Purnea.
2. District Magistrate, Purnea.
3. Additional Collector- Cum- Appellate Authority- Cum- Reviewing Authority, Purnea.
4. Land Reforms Deputy Collector (L.R.D.C), Baisee, Purnea.
5. Rajendra Prasad Sah S/O Sukhdeo Prasad Sah Resident Of Village- Malharia, P.S- Baisee, District- Purnea.

.... Respondent/s

Appearance :

(In CWJC No. 10285 of 2013)

For the Petitioner/s : Mr. Mr. Pramod Kumar Singh

For the State Mr. Ashok Kumar SC 11

(In CWJC No. 11182 of 2013)

For the Petitioner/s : Mr. Mr. Pramod Kumar Singh

For the State Mr. S. Raza Ahmad, AAG 9

Mr. Vishambhar Prasad, AC to AAG 9

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 29-02-2016

Heard Mr. Pramod Kumar Singh for the petitioner(s) and the counsel for the State.

Both the matters raise identical/similar issue wherein action has been taken against the designated public servant for having delivered deficient service under the Bihar Right to Public Services Act, 2011 (for short 'the Act'). The impugned order has been passed by the respondent Deputy Collector, Land Reforms imposing penalty on the public servant i.e. Circle Officer. With the consent of the parties, both the writ applications have been heard together and are being disposed of by this common order.

Annexure-3 in CWJC No. 10285 of 2013 is the order passed by the Deputy Collector, Land Reforms wherefrom it appears that the petitioner was called upon to submit his explanation/report against the complaint of deficient service made by the respondent. Upon receipt of the report/explanation and after hearing, the Deputy Collector, Land Reforms found the petitioner(s) not diligent in discharge of his duty as required under the Act and imposed fine .

The contention of the petitioner(s) is that before imposition of fine under section 7 of the Act, an opportunity of hearing ought to have been given to him which, in the present case, was not done. He relied in this regard on AIR 1964 SC 477.

Conversely, Mr. Vishambhar Prasad, while supporting the impugned order, submits that under the Act itself an effective remedy is provided to the petitioner(s). He relied in this regard on section 6(3) of the Act which reads thus:-

“The Designated Public Servant or the Applicant aggrieved by any order of the Appellate Authority, may make a second appeal within 60 (sixty) days from the date of that order to be Reviewing Authority, who shall disposed of the appeal according to the prescribed

procedure:

Provided that the Reviewing Authority may entertain the second appeal after the expiry of 60(sixty) days, if he/she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.”

On perusal of the impugned order, it does appear to the Court that the same has been passed in exercise of jurisdiction conferred upon the appellate authority under section 6 and 7 of the Act. Such construction, in my view, shall also make the provisions of the Act meaningful. Indisputably, a right has been bestowed on the aggrieved party, like the petitioner, to file appeal thereagainst. From the pleadings made in the writ application, it appears that the petitioner has already filed an appeal which is pending consideration.

This Court would not dwell further on the submission of Mr. Singh that no opportunity of hearing was given to the petitioner before passing the said order leaving it to the appellate authority to examine the case of the petitioner while disposing of the appeal.

Without interfering with the impugned order, the writ applications are disposed of to the effect that the appeal of the petitioner(s) shall be examined and disposed of, if not already disposed of, in accordance with law within 08 weeks from the date of receipt/production of a copy of this order.

(Kishore Kumar Mandal, J)

HR/-

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