

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1167 of 2013  
IN  
Civil Writ Jurisdiction Case No. 10873 of 2007**

=====

Ajit Kumar @ Ageeit Kumar Son of Late Kuldeep Prasad Resident of Village  
Gangjala, Police Station - Paraiyaghat District - Godda

.... .... Appellant

Versus

1. The State of Bihar
2. The Secretary cum Commissioner, Department of Home (Police), Govt. of Bihar,  
Patna
3. The Director General of Police, Govt. of Bihar, Patna
4. The Block Education Extension Officer, Kadwa, District - Katihar
5. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur, Bihar
6. The Inspector of Police, Katara Anchal, District - Muzaffarpur, Bihar

.... .... Respondents

=====

**Appearance :**

For the Appellant/s : Mr. Bindhyachal Singh &  
Mr. Satya Prakash, Advocates

For the Respondent/s : Mr. P. K. Verma, AAG III  
Mr. Saroj Kumar Sharma, A.C. to AAG III

=====

**CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA**

**and**

**HONOURABLE MR. JUSTICE ARUN KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)**

**Date: 22-12-2016**

Heard learned counsel for the appellant and learned  
Additional Advocate General III for the State.

2. The Letters Patent Appeal is filed against the order  
dated 13.08.2012 passed by a learned Single Judge in C.W.J.C. No.  
10873 of 2007 by which the writ application has been dismissed.

3. The matter arises out of a departmental proceeding  
initiated against the appellant for misbehaving with a vendor and



trying to detain him and take away a box of bangle from him and upon protest having taken out his service revolver.

4. A departmental proceeding was initiated against the appellant in which he was found guilty of the charges by the disciplinary authority and, accordingly, the disciplinary authority imposed punishment of dismissal upon him by office order dated 13.01.2007. The appeal filed by the appellant against the order of the disciplinary authority was rejected by the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur by order dated 12.04.2007. The Zonal Inspector General of Police, Tirhut Zone, Muzaffarpur by his order dated 01.04.2011 dismissed the further appeal against the appellate order dated 12.04.2007. It may here be pointed out that the appellate order dated 12.04.2007 was passed by Sri Gupteshwar Pandey, I.P.S. as the Deputy Inspector General of Police, Tirhut Range, Muzaffarpur and the 2<sup>nd</sup> appellate order dated 01.04.2011 preferred against the order dated 12.04.2007 was also passed by the same Sri Gupteshwar Pandey, I.P.S. as the Zonal Inspector General of Police, Tirhut Zone, Muzaffarpur. Thereafter the Memorial filed by the appellant against the appellate order was also rejected by order dated 13.02.2012 of the Director General of Police.

5. In view of the nature of order which we intend to pass, the detailed facts need not be noted, although learned counsel for the



appellant has made submissions on large number of grounds. The submission which we are taking into consideration is that all the appellate authorities from the stage of Deputy Inspector General of Police to the Director General of Police have not applied their mind while disposing of the appeals and the Memorial as none of the submissions raised by the writ petitioner-appellant was considered by them. It is urged that no ground or reason for rejection of the appeals and memorial and upholding the order of the disciplinary authority is to be found in the said orders. It is, thus, submitted that the appellate orders are vitiated and require to be quashed. In support of the same, learned counsel for the appellant relies on a decision of the Supreme Court in the case of Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and others : (2009) 4 SCC, 240, in paragraph 5 of which it has been held as follows :

“ In our opinion, an order of affirmation need not contain as elaborate reasons as an order of reversal, but that does not mean that the order of affirmation need not contain any reasons whatsoever. In fact, the said decision in Prabhu Dayal Grover case has itself stated that the appellate order should disclose application of mind. Whether there was an application of mind or not can only be disclosed by some reasons, at least in brief, mentioned in the order of the appellate authority. Hence, we cannot accept the proposition that an order of affirmation need not contain any reasons at all. That order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order



of the disciplinary authority.”

6. We have perused the two appellate orders of the Deputy Inspector General of Police and the Zonal Inspector General of Police as also the order passed by the Director General of Police on the memorial filed by the appellant and we find that so far as the first two appellate orders are concerned, they contain merely recitals of the history of the case with a bare statement that the matters were deeply examined, without showing anything in the orders themselves to show such deep examination and the reasons which led to the rejection of the appeals. In the order passed by the Director General of Police on the memorial we find that although he has considered the grounds taken by the appellant in the memorial but he has also not shown any application of mind as to why the grounds of appeal did not appeal to him; thus there is absolutely nothing to show his application of mind in the order passed on the memorial also.

7. The aforesaid aspect of the matter has not been considered by the learned Single Judge. Learned Additional Advocate General has not been able to show to us that the three appellate orders show any application of mind by the authorities concerned. He seeks to place reliance on the case of Union of India and others Vs. P. Gunasekaran : (2015) 2 SCC 610 in which the well established principles with regard to the scope of interference by the



High Court under its jurisdiction under Articles 226 and 227 have been reiterated. We are conscious of the supervisory jurisdiction of the High Court in the matter and the limitation within which it has to be exercised. As a matter of fact, there is no question of re-appreciating the materials on the record by the High Court in such proceeding and coming to a different conclusion in the matter or even interfering with the punishment unless the disproportionality of the punishment shocks the conscience of the Court. However, the said decision does not help the respondents as the very reason for the High Court not exercising its jurisdiction of judicial review under Articles 226 and 227 of the Constitution of India like an appellate authority is that it is the administrative disciplinary and appellate authorities who are the competent authorities in such disciplinary matters and it is for such disciplinary authority or appellate authorities while disposing of the appeal to show their application of mind.

8. In the present matter, we also find that the same Officer sat in appeal as the Zonal Inspector General of police over his own appellate order which was passed in the capacity of Deputy Inspector General of Police, which is wholly impermissible.

9. For the aforesaid reasons, the impugned order dated 13.08.2012 of the learned Single Judge is set aside, as also the order dated 12.04.2007 of the Deputy Inspector General of police, Tirhut



Range, Muzaffarpur, the order dated 01.04.2011 of the Zonal Inspector General of Police, Tirhut Zone, Muzaffarpur, and the order dated 13.02.2012 of the Director General of Police are quashed and the matter is remanded to the Deputy Inspector General of Police, Muzaffarpur Range, Muzaffarpur to consider and dispose of the appeal by passing a speaking order in accordance with law. The appeal and the writ application are allowed to the extent indicated above.

10. In view of the fact that the matter is an old one, let the said order be passed within a period of six weeks from the date of receipt/production of a copy of this order.

**(Ramesh Kumar Datta, J)**

Amin/-

**(Arun Kumar, J)**

|                   |  |
|-------------------|--|
| AFR/NAFR          |  |
| CAV DATE          |  |
| Uploading Date    |  |
| Transmission Date |  |

