

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16294 of 2016

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Sheikh Nurul Hoda, son of late Sheikh Jan Mohammad, at present working as Awar
Pramandal Padadhikari, Gada Bagha, P.S. Bagha, District West Champaran
(Motihari)

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Water Resources,
Govt. of Bihar, Patna
2. The Deputy Secretary, Department of Water Resources, Govt. of Bihar, Patna
3. The Gandak Command Area Development Authority through its Chairman,
Gandak Command Area Development Authority, Muzaffarpur
4. The Regional Development Commissioner cum Chairman, Gandak Command
Area Development Authority, Muzaffarpur
5. The Secretary, Gandak Command Area Development Authority, Muzaffarpur
6. The Engineer in Chief (Central), Department of Water Resources, Govt. of
Bihar, Patna
7. The Superintending Engineer II (Circle) cum Conducting Officer, Gandak
Gada, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Adv.
For the Respondent/s : Mr. Hari Shankar Roy, AC to AG
For GADA : Mr. Satish Chandra Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 31-07-2017

Heard Mr. Pramod Kumar, learned counsel for the
petitioner, Mr. Hari Shankar Roy, AC to AG, for the State and Mr.
Satish Chandra Jha, learned counsel representing Gandak Command
Area Development Authority ('GADA' for the sake of brevity).

The petitioner has questioned the order bearing memo No.
49 dated 13.1.2014 passed by the Regional Development
Commissioner cum Chairman, GADA, Muzaffarpur, impugned at
Annexure 6, whereby the petitioner has been visited with penalty of



censure as well as recovery of a sum of Rs.2,40,302/-.

It is not in dispute that this very order of penalty, impugned at Annexure 6, was the subject matter of a writ petition arising from C.W.J.C.No. 8542/2015 and a Co-ordinate Bench of this Court in consideration of the facts involved disposed of the writ petition with the liberty to the petitioner to file statutory appeal within 30 days of the order. It is misunderstanding the directions of this Court that a representation was again filed by the petitioner before the same authority instead of filing an appeal before the appellate authority and which has been rightly rejected vide order bearing Memo No. 1293 dated 29.11.2016, a copy of which is enclosed at Annexure 'A' to the counter affidavit, inter alia, on grounds that the appeal was not maintainable. By the same order the petitioner was informed that he can prefer an appeal before the appropriate authority in terms of the Bihar Agricultural and Rural Area Development Agency Service Condition, Conduct, Discipline- Control and Appeal Rules, 2010. It is again not in dispute that it is while this matter is pending before this Court, that the order has been passed by the Superintending Engineer dated 29.11.2016 enclosed in the counter affidavit filed on behalf of 'GADA' today.

In view of the position reflecting from Annexure 9 and Annexure 'A' to the counter affidavit filed on behalf of 'GADA', the



writ petition is disposed of leaving it open for the petitioner to avail of the liberty so given to him.

Considering that the petitioner had filed his appeal in pursuance of the order of this Court present at Annexure 9 albeit before a wrong forum, in view of disposal of the same vide order present at Annexure 'A', should the petitioner file his appeal before the proper forum within four weeks from today together with a petition for condonation of delay, the same should be considered on its own merits and disposed of in accordance with law. It is also made clear that the appellate authority shall be bound by the time frame so present in the order passed by this Court present at Annexure 9.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2017
Transmission Date	NA

