

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1490 of 2017
IN
Civil Writ Jurisdiction Case No. 19933 of 2016**

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1. The State of Bihar	
2. The District Magistrate, West Champaran, Bettiah	 Appellant/s
	Versus
Chandrama Manjhi	 Respondent/s

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Appearance :

For the Appellant/s : Mr. Asif Kalim, AC to AAG-12
For the Respondent/s : Mr. Bindhyachal Singh, Advocate
Mr. Vipin Kumar Singh, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 14-11-2017

Ref.: I. A. No. 7712 of 2017

The instant interlocutory application has been filed for condoning the delay of 117 days in filing the appeal.

In view of the statements made in the interlocutory application, I.A. No. 7712 of 2017 is allowed and the delay in filing the present appeal is condoned.

Seeking exception to an order passed by the learned Writ Court on 23.03.2017 in C.W.J.C. No. 19933 of 2016, this appeal has been filed by the State Government under Clause 10 of the Letters Patent.

The respondent was working in the office of District Magistrate-cum-Collector, West Champaran, Bettiah and challenging



his dismissal from service on the basis of finding of guilt recorded in a departmental enquiry, the writ petition in question was filed and the writ court having quashed the order of dismissal, so also the order of the appellate authority, this appeal by the State Government.

The facts, in nut shell, goes to show that while the petitioner was discharging his duties, it was alleged that he was caught red handed accepting bribe leading to institution of Vigilance P.S. case No. 38 of 2011 by the Vigilance Department under the Prevention of Corruption Act, 1988. However, simultaneously, the departmental proceedings have been conducted and based on the report submitted by the enquiry officer, the impugned action was taken. The appeal has also been dismissed. Thereafter the writ petition was filed. The Writ Court examined the matter in detail and found that the findings of the enquiry officer, which was accepted by the disciplinary authority and appellate authority, were based on vigilance report, which was prepared behind the back of the petitioner. The Vigilance Officer, who had prepared the report, was not produced before the enquiry officer for cross-examination by the delinquent employee and merely on the basis of report prepared behind the back of the petitioner a finding was recorded. The learned Writ Court placing reliance on the judgment in the case of Anil Kumar Vs. The State of Bihar & Ors (CWJC No. 280 of 2016), Kuldeep Singh Vs.



Commissioner of Police & Ors. [(1992) 2 SCC 10] and Roop Singh Negi Vs. Punjab National Bank & Ors. [(2009) 2 SCC 570], recorded the finding that based on a vigilance report, which is prepared behind the back of the employee concerned without examining the vigilance officer and without granting an opportunity to the employee to cross-examine the vigilance officer and without proving the vigilance report, by leading the appropriate evidence in the departmental enquiry, the action is unsustainable and accordingly interfered in the matter by quashing the departmental proceeding, the order of the disciplinary authority and the appellate authority in doing so.

For the reasons recorded by the learned Writ Court as discussed herein above, we see no error in the judgment warranting reconsideration in the matter. However, we grant 30 days’ time to the department to implement the order passed by the learned Writ Court.

The appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2017
Transmission Date	NA

