

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8526 of 2014

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Akhilesh Kumar Singh Son of Late Jagnarayan Singh resident of village -
Sonepukra Bhojpur, P.S. Mashauri, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Urban Development, Govt. of Bihar, Patna
2. The Chairman, Nagar Parishad, Mashauri, Patna
3. The Chief Executive Officer, Nagar Parishad Mashauri
4. The Executive Officer, Nagar Parishad, Mashauri

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Banwari Sharma, Adv.
For the Respondent/s	:	Mr. MD.RAISUL HAQUE, SC-10 Mr. Obaidullah, AC to SC-10
For Nagar Parishad	:	Mr. Nagendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 17-08-2017

Heard both sides.

2. The petitioner has challenged order dated 07.05.2008 as contained in Memo No. 163 issued under the signature of the Executive Officer, Nagar Parishad Masaurhi, Patna (annexure-9) and the order dated 12.02.2014 as contained in letter No. 143 passed by the Chief Executive Officer Nagar Parishad Masaurhi, Patna by which the petitioner has been dismissed from his service.

3. Mr. Banwari Sharma learned counsel for the petitioner assailed the order on the ground that no department enquiry was held. The petitioner is alleged to have been caught red-handed by the Vigilance while accepting bribe of Rs. 2,800/- for which Vigilance



Case No. 55/07 was registered and on the same facts charges were framed against the petitioner besides other charges, but neither departmental enquiry was initiated nor enquiry officer was appointed, on the basis of the preliminary enquiry report the Deputy Collector Land Reforms, Nagar Parishad dismissed the petitioner from his service and the same order was communicated to the petitioner by the Chief Executive Officer, Nagar Parishad, Masaurhi, Patna vide order dated 07.05.2008 (Annexure – 9). It is submitted that the order is palpably illegal, on the basis of the preliminary enquiry report; the petitioner could not be dismissed from service if the petitioner is found guilty in preliminary enquiry. The Nagar Parishad should have initiated a departmental proceeding in accordance with law against the petitioner, but only on the basis of the preliminary enquiry report of the Deputy Collector, Land Reforms, the petitioner has been dismissed from service, therefore, the order is bad. The appellate authority also confirmed the order of the disciplinary authority without assigning any reason and considering the grounds of the petitioner.

4. Mr. Nagendra Kumar Singh learned counsel for Nagar Parishad, Masaurhi, Patna submitted that Board is empowered to dismiss an employee if the Board finds that an employee has committed gross mis-conduct in performance of his official duty, but when Mr. Singh is confronted with the facts that no enquiry is held, he



could not be able to give any satisfactory reply and very fairly submitted that it appears that no full-fledged enquiry is held against the petitioner nor any opportunity was provided to the petitioner to participate in the departmental enquiry.

5. On the discussions made above and on perusal of the records, I find that memo of charges were framed and the same was served on the petitioner, but no enquiry officer was appointed nor any enquiry was held. On the basis of the preliminary enquiry report of the D.C.L.R. which was placed before the Board of Nagar Parishad Masaurhi, Patna, the Board took decision to dismiss the petitioner.

The empowered Standing Committee Nagar Parishad Masaurhi, Patna resolves to dismiss the petitioner without following the procedure for inflicting major punishment such as dismissal against any proceedee. Therefore, I find that order suffers from illegality and not sustainable. Thus, the order dated 07.05.2008, as contained in Memo No. 163 (Annexure-9) and order dated 12.02.2014 as contained in letter No. 143 are set aside. Thus, the writ petition is allowed.

(Prabhat Kumar Jha, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04/09/2017
Transmission Date	NA

