

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1140 of 2013

In

Civil Writ Jurisdiction Case No.9955 of 2003

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1. Bihar State Financial Corporation, Fraser Road, Patna through its Managing Director.
 2. The Board of Directors of the Bihar State Financial Corporation, through its Chairman, Fraser Road, Patna
 3. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna
 4. Sri Subhash Sharma son of G.D.Sharma, presently posted as Chairman, Bihar Secondary School Examination Board, Sinha Library Road, Patna
 5. Sri M.P.Mandiwal son of Sri Ram Kashi, Assistant General Manager cum Conducting Officer, Bihar State Financial Corporation, Fraser Road, Patna
 6. Sri Ranjan Kumar son of Sri S.P.Sinha, Manager (P&A), Bihar State Financial Corporation, Fraser Road, Patna

... .. Appellant/s

Versus

1. Smt. Madhuri Devi wife of Late Arjun Prasad, resident of Q.No.1001, Winona Building, Hiranandani Estate, Godh Bandar Road, Thane, Mumbai
2. Chandra Bhushan Sahgal son of Late Arjun Prasad, esident of Q.No.1001, Winona Building, Hiranandani Estate, Godh Bandar Road, Thane, Mumbai
3. Rabi Shankar son of Late Arjun Prasad, esident of Q.No.1001, Winona Building, Hiranandani Estate, Godh Bandar Road, Thane, Mumbai
4. Ms. Shobha Kumari daughter of Late Arjun Prasad, presnetly residing at Girl's Hostel, Room No.14, Bihar Veterinary College, Patna
5. Ms Vineeta Kumari daughter of Late Arjun Prasad, 48, Koyana Girl's Hostel, Jawaharlal Nehru University, New Delhi

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Raju Giri, Advocate
For the Respondent/s	:	Mr. Manik Vedsen, Advocate
		Mr Subhash Chandra Bose, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 30-08-2017

Heard learned counsel for the appellants as well as the private respondents in the present Letters Patent Appeal which arises out of order dated 19.09.2012 passed in CWJC No.9955 of 2003.



The learned Single Judge allowed the writ application and set aside the two impugned orders by virtue of which an order for demotion in the rank and affirmance of the order of the disciplinary authority by the appellate authority were set aside.

This Court does not want to unnecessarily burden the present order with all the facts and the principles of law which governs such issue because the learned Single Judge has dealt with such issue in quite a detail.

Sum essence of the impugned order is that no procedure was followed in the so-called departmental proceeding, which was held against the private respondent and a sham was played out in the name of enquiry, which led to issuance of order of punishment. Even though the law does not require following the rules of evidence strictly in matters of departmental enquiry but nowhere the law says that even the basic modicum of proof or evidence is not required to be adhered to.

In the present case, the allegation relating to financial irregularity with regard to sanction of loan, procurement of certain machinery were all based on documentary evidence. None of the documents were proved or established before the enquiry officer. A bunch was prepared and the same was adopted for the purpose of proof and conclusion by the enquiry officer.



From the reading of the order of the learned Single Judge and on putting a pointed question to the counsel for the appellants, the infirmities are not explained.

Whatever be the compulsion for a quick action necessitated, in the opinion of the then Managing Director, the emergent situation does not contemplate waiver of rules or procedure, which is expected to be adopted in a departmental proceeding.

The manner in which the appellants went about the departmental proceeding culminating into issuance of order of punishment had to be quashed to restore faith in the judicial process and the system.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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