

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1222 of 2014
IN
Civil Writ Jurisdiction Case No. 16468 of 2010

- =====
1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
 2. The District Magistrate, Gaya, Bihar
 3. The Deputy Collector (Establishment), Gaya, Bihar
 4. The Land Reforms Deputy Collector, Sadar Gaya, Bihar
 5. The Land Reforms Deputy Collector Sherghati, District - Gaya, Bihar
 6. Prakhand Vikash Padadhikari (P.V.P.), Block- Belaganj, District - Gaya, Bihar
 7. Anchal Adhikari, Imamganj, District - Gaya, Bihar

.... Respondents - Appellants

Versus

Kundan Kumar Son of Late Nathuni Sharma, resident of Hari Press, Gandhi Maidan, Jehanabad Town, P.S. and District - Jehanabad, at present C/O P.N. Pathak, House No.412, Road No. 23, Nehru Nagar, Patliputra Colony, Patna-800013

.... Petitioner - Respondent

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Appearance:

For the Appellant/s : Mr. Rakesh Kr. Shrivastava, AC to GP 15
For the Private Respondent/s: Mr. Adhitya Narayan Singh and
Mr. Shashi Bhushan Singh, Advocates.

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

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 01-11-2017

Heard learned counsel for the appellants State and learned counsel for the respondent.

2. Writ Application of the petitioner, who is the private respondent in the Letters Patent Appeal, was allowed by the learned Single Judge on 11.02.2014. The order of dismissal passed against the private respondent was set aside and, therefore, the State is in appeal assailing the said order.

3. Instead of going into the details, the Court is tempted to



reproduce two paragraphs of the order which speak for itself as to why the learned Single Judge was compelled to allow the Writ Application and set aside the order of dismissal. The relevant paragraphs are paragraphs 2 and 3 which read as under:-

“2. Learned senior counsel for the petitioner submits that no proceeding was held in both the enquiries and some ex parte report was submitted upon which the impugned orders were passed. He further submitted that charges were distinct; the alleged period of occurrence was different and the place was also different. Hence both the proceedings, if at all, had to be held separately and separate orders had to be passed. However, without any proper proceeding in compliance with the Principles of Natural Justice, some reports were submitted and the disciplinary authority i.e. District Magistrate passed the composite order in both the proceedings adopting the procedure unknown to law.

3. By order dated 20.01.2014, learned counsel for the respondents was requested to get the entire connected records of the two disciplinary proceedings held against petitioner. Learned counsel has procured the records and has gone through the same. After examining the records, he fairly submits that there is no material available on record to show as to under what circumstances, a common order in both the proceedings were passed. He further submits that from the records it does not appear that in the proceeding only records were examined or any opportunity was given to the petitioner to participate. He further submits that the proceedings were held separately but records do not show that any witness was examined after due notice to the petitioner to appear in the proceeding and in his presence. It is submitted that from the records it does not appear that even after remand, enquiry report in respect of the first enquiry was served upon petitioner.”

4. Obviously, the State authorities were either in



connivance with the so-called delinquent or if they are serious about the charges and allegation they should have followed the process and the law and taken it to its logical end.

5. Besides the above, still opportunity has been given to the State Government to proceed with the matter afresh by following the due process or the principles of natural justice or the provisions which have been laid down under the Bihar CCA Rules, 2005 as amended up-to-date.

6. It is a frivolous appeal. The ball is still in the court of the State. They can still redeem the situation if they so want. Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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