

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5823 of 2014**

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1. Ajeet Kumar Sinha Son Of Late Baban Prasad Resident Of The Mohalla - Lala Babu Road, P.O. Nai Godwn, P.S. Kotwali Gaya At District - Gaya, At Present Address - At Present Posted As Revenue Karamchari, Anchal Office, Wazirganj, Gaya, P.S. Wazirganj, At District - Gaya

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Magadh Division Range, District Gaya
3. The District Magistrate ( Collector ) Gaya At District Gaya
4. The Additional Collector, Gaya At District - Gaya
5. The Sub - Divisional Officer, Block - Wazirganj At District Gaya
6. The Block Development Officer, Block - Wazirganj At District - Gaya
7. The Circle Officer, Anchal Wazirganj, District - Gaya

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. AJAY KUMAR SINHA

For the Respondent/s : Mr. DEVENDRA KR SINHA

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**

**ORAL JUDGMENT**

**Date: 08-08-2017**

Heard both sides.

2. The petitioner in this writ petition seeks quashing of the order dated 22.07.2010 passed by the Collector/Additional Collector by which two increments of the petitioner was withheld with cumulative effect to show inflated collection of land revenue in the financial year 2005-06. The petitioner further seeks quashing of the order dated 09.09.2013 passed by the Commissioner, Magadh Division, Gaya as contained in Annexure-2 by which the statutory appeal of the petitioner against the order of punishment passed by the



Collector, Gaya has been dismissed.

3. Mr. Ajay Kumar Sinha, learned counsel for the petitioner assailed the order on the ground that no departmental proceeding was held in accordance with law. Sub-Divisional Officer, Sadar, Gaya was appointed as enquiry officer. The Circle Officer, Wazirganj was the presenting officer. The petitioner filed his show cause but, the enquiry officer on perusal of the show cause of the petitioner and the opinion of the presenting officer, submitted report that no charge was found proved against the petitioner. The Collector, Gaya differing with the finding of the enquiry officer, asked show cause from the petitioner. The petitioner filed his show cause stating that there is no evidence on record but the Collector inflicted punishment of withholding two increments of the petitioner with cumulative effect. The appellate authority also dismissed the appeal of the petitioner without considering the grounds and the facts stated in the memo of appeal filed by the petitioner. The punishment is based on no evidence.

4. Learned counsel for the State has submitted that on the basis of the report, itself, it appears that the revenue collection made by the petitioner in the year 2006-07. The petitioner showed the same collection for the year 2005-06 and inflated the amount of collection of revenue in the financial year 2005-06 on this ground the



petitioner has rightly been punished.

5. Having heard the submissions of the parties the question arises whether the departmental enquiry was held in accordance with law and the procedure as prescribed under Rule 17 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

6. On perusal of sub rule 14 and 17, the enquiry officer is mandated after receiving the show cause of the delinquent, to fix the date of enquiry and the enquiry officer shall ask the presenting officer to adduce oral and documentary evidence, if any, by which the articles of charge are proposed to be proved. The delinquent shall be allowed to cross-examine the witnesses examined by the presenting office on behalf of disciplinary authority. Sub-rule 15 further stipulates that the enquiry officer shall allow the presenting officer sufficient time to adduce evidence but, from perusal of the order as contained in Annexure-4 (enquiry report) it appears that the enquiry officer perused the show cause of the delinquent, the petitioner and the opinion of the Circle Officer, Wazirganj, presenting officer on the articles of the charge. On the basis of show cause and opinion of the presenting officer the enquiry officer submitted his report that no charge was proved against the petitioner and the same report was submitted to the disciplinary authority. Thus, it is crystal clear that the



enquiry officer did not hold the enquiry in accordance with rules aforesaid but, the Collector differ with the findings of the enquiry officer which is based on no evidence. The difference of opinion of the Collector is also based on no evidence but, the Collector inflicted punishment of stoppage of two increments with cumulative effect which is a major punishment and for that the enquiry must be held in accordance with rules as prescribed under Rule 17 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

7. Therefore, I find that the order of the Collector inflicting punishment of stoppage of two increments with cumulative effect and the order of the Commissioner in appeal are based on no evidence and both the orders are not sustainable. Accordingly, the order dated 22.07.2010 and the order dated 09.09.2013 passed by the Commissioner, Magadh Division, Gaya (Annexure-2) is set aside. The writ petition is allowed and the respondents are at liberty to proceed afresh in accordance with law.

**(Prabhat Kumar Jha, J)**

KKSINHA/-

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