

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.985 of 2016
Arising out of
Civil Writ Jurisdiction Case No.13191 of 2015**

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Prabhat Kumar Sinha son of Late Madan Mohan Sinha, resident of Mohalla-Jhilganj, Peepalgali, Pahasi Road, P.S. Kotwali Dist.- Gaya at present posted at Block Kutumba, P.S.- Kutumba, District- Aurangabad

.... Appellant/s

Versus

1. The State of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna
3. The Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna
4. District Magistrate, Aurangabad
5. Block Development Officer, Kutumba Block, Dist- Aurangabad

.... Respondent/s

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Appearance :

For the Appellant : Mr. Vivekanand Vivek, Advocate

For the State/Respondents : Mr. Rohit Mishra, Advocate

Mr. Vijaya Laxhmi Srivastava, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 07-02-2017

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 1st of April, 2016 in C.W.J.C. No. 13191 of 2015 whereby, writ application filed by the appellant for accepting the joining submitted by him and to assign work of Block Panchayat Officer remained unsuccessful.

2. The learned Single Bench found that departmental proceedings have been drawn up against the appellant and the appellant was directed to face the enquiry without further delay. If he does not want to face the enquiry, remedial measures were ordered to be taken.



3. When the matter came up for hearing before this Court on 4th of February, 2017, it was the stand of the appellant that memo of charge dated 08th of January, 2016 as mentioned in the counter affidavit has not been served upon him. The Department was directed to bring the memo of charge to serve the appellant in Court.

4. Today, learned counsel for the State has brought the original memo of charge, which was sent to the appellant under speed post on 9th of September, 2016, which was returned with the remark 'refusal'. Counsel for the appellant is directed to accept the memo of charge consisting of 22 pages. Learned counsel for the appellant accepts such memo of charge.

5. The argument of learned counsel for the appellant is that the Block Development Officer has written a letter on 11th of May, 2015 attached with the Interlocutory Application as Annexure-1 with a view to harass the appellant so that he is not able to take any relief from the Court.

6. We have gone through the said letter. Said letter is not a complete document and has only first page. The letter is without any dispatch number or the date, except the date finds mentioned underneath the signature on the first page. The *prima facie* reading of the said letter does not inspire confidence that it can be a letter written by the Department. In the counter affidavit filed on behalf of Respondent Nos.4 and 5, it has been stated that the appellant was



permitted to join on 26th of March, 2015 and the salary was paid in his Bank account from the month of April, 2015 to November, 2015 amounting to Rs.1,49,607/-. Such payment controverts the stand of the appellant in the letter that he was not permitted to join and not paid anything.

7. Since the appellant is facing a departmental enquiry in respect of which memo of charge has been served upon him at least today in Court, therefore, we do not find any error in the order passed by the learned Single Bench, which warrants interference in the present Letters Patent Appeal.

8. Consequently the present Letters Patent Appeal is dismissed.

9. In case the appellant delays conclusion of the departmental proceedings, it shall be open to the Enquiry Officer to act in accordance with law so that the departmental proceeding is concluded expeditiously.

(Hemant Gupta, ACJ)

Narendra/-

(Sudhir Singh, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
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