

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18436 of 2010

- =====
1. Basant Prasad Sinha S/O Late Bhubneshwar Prasad R/O Vill.- Ramchandradih,
P.O. And P.S.- Chakai, Distt.- Jamui, At Present Residing At Mohalla- Dr.
Isalane, Mundrika Bhawan Maulabagh, Ara, P.S.- Ara Town, Distt.- Bhojpur At
Ara

.... Petitioner/s

Versus

1. State Of Bihar Through The Chief Secretary, Old Secretariat, Patna
2. Principal Secretary, Revenue And Land Reforms Department, Old Secretariat,
Patna
3. Divisional Commissioner, Patna Division, Patna
4. Director, Land Rrecords And Measurement, Bihar, Patna
5. District Magistrate, Patna
6. Settlement Officer, Patna Settlement Office, Patna, Punaichak, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mukul Prasad, Advocate

For the Respondent/s : Mr. Priyadarshi Matri Sharan, AC to AAG-15

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 10-08-2017

I.A. No.2929 of 2012 filed for substitution after the
death of the petitioner is allowed.

Substitution be carried out during the course of the day.

Challenge in this writ petition is made to an order dated
23.7.2010 passed by the Principal Secretary, Revenue and Land
Reforms Department, Patna as communicated under Order No.633
dated 23.7.2010 whereby punishment of censure and recovery of
Rs.1,33,753 and confirmation of the period of suspension has been
awarded against the petitioner.



Petitioner was working as an Assistant Settlement Officer. A charge-sheet was issued to him and based on three allegations levelled in the charge-sheet, an enquiry was conducted by one Shri Daya Shankar Pandey, Director, Land Reforms and Survey, who, after conducting enquiry, submitted his report holding that charges 1 and 2 are not proved, Charge No.3 is partly proved. The enquiry officer's report was placed before the disciplinary authority and it is an admitted position that the disciplinary authority disagreed with the finding of the enquiry officer, recorded his own statement holding the petitioner guilty of the charges and based on the same the impugned action has been taken. However, before recording his finding of dissent and holding the petitioner guilty of the charges levelled against him, as is evident from the record, the disciplinary authority did not issue show cause notice to the petitioner and behind the back of the petitioner, without notice to him, the disciplinary authority disagreed with the finding of the enquiry officer and recorded his own finding holding the petitioner guilty of the charges levelled in the departmental enquiry.

This is in total violation of principles of natural justice and the law laid down by the Hon'ble Supreme Court in the case of Punjab National Bank & Ors. Vs. Kunj Behari Misra, (1998) 7 SCC 84 and, therefore, on this count alone, the entire action taken against



the petitioner stands vitiated.

The application is allowed and the impugned order is quashed.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.8.2017
Transmission Date	N/A

