

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10629 of 2014

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Vivekanand Singh S/o Late Balmiki Singh Resident of Village & P.O. Pyarepur,
P.S. Sarmera, District Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. Director General of Police, Bihar, Patna..
3. The D.I.G. of Police, Military Police, Central Zone, Patna.
4. The Commandant, B.M.P.-4, Dumraon, Buxar.
5. The Dy. S.P., B.M.P. 4, Dumraon, Buxar,

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate

For the Respondent/s : Mr. Mithilesh Kumar Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 28-11-2017

Heard counsels for the petitioner and the State.

Counsel for the petitioner is permitted to implead the Dy.

S.P., B.M.P IV, Dumraon, Buxar as respondent no. 5.

Having gone into the details of the allegation, this Court finds procedural irregularity as highlighted by the petitioner. Counsel for the petitioner has drawn attention of the Court towards Annexure 2, the order of punishment dated 02.07.2013 whereby his services has been terminated. The said order discloses that the enquiry report has been served along with the order of punishment.

The counsel for the petitioner has highlighted this



procedural irregularity in his appeal dated 03.10.2013 filed before the D.I.G. of Police, Military Police, Central Zone Patna. The relevant averment to this respect is made at paragraph 17 of the appeal.

Counsel for the State is not in a position to point out from the order of the appellate authority or the memorial that this aspect of the matter has been considered.

From the counter affidavit filed by the State it appears that the same is an admitted position in response to Sub-para X of Paragraph 9 of the writ petition wherein the petitioner has given the relevant pleadings regarding the enquiry report being served along with the order of punishment dated 02.07.2013. The same has been admitted by the respondents in Sub-para X of paragraph 11 to the counter affidavit.

In view of the aforesaid position, the petitioner relies upon the judgment of the Division Bench of this Court in the case of ***Shiv Prakash Singh vs. State of Bihar*** reported in ***2016(4) PLJR 813*** more specifically paragraph nos. 8 and 9 thereto. In the light of the said judgment, he has submitted that the petitioner has been deprived of a very vital opportunity to make representation with respect to the findings of the Enquiry Officer.

In view of the aforesaid submission, the matter is remanded to the Commandant, B.M.P IV, Dumraon, Buxar,



respondent no. 4 to proceed afresh after furnishing the enquiry report to the petitioner.

The order dated 02.07.2013 (Annexure 2) passed by the Commandant, B.M.P 4, Dumraon Buxar, the order dated 03.10.2013 (Annexure 3) passed by the D.I.G of Police, Military Police, Central Zone, Patna and the memorial order dated 28.05.2014 (Annexure 5) passed by the Director General of Police, Bihar, Patna, are hereby quashed.

With the aforesaid direction, the writ petition is allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.12.2017
Transmission Date	

