

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10719 of 2014

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Kamlakant Singh son of Late Balbachan Singh resident of village - Pokharahan
Tola, P.O. Pokharahan, P.S. Bagen Gola, District - Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms, Govt of Bihar, Patna
3. The Joint Secretary, Department of Revenue and Land Reforms, Govt of Bihar, Patna
4. The Commissioner, Saran Division, District - Chhapra
5. The Collector, Saran District - Chhapra
6. The Sub - Divisional Officer (S.D.O.) Sonapur, District - Saran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Rajendra Narain, Sr Advocate with
Ms Anju Kumari @ Anju Narain,
M/s Umesh Kr Roy, Alok Ranjan,
Kunj Bihari Sharan, Advocates

For the Respondent/s : Mr Shashi Shekhar Kr Pd, AC to AAG II

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 30-11-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

For some alleged irregularities committed during the
Panchayat Elections 2011, one charge memo was issued to the
petitioner on 19.07.2011. The petitioner submitted his response dated
10.10.2011. Upon receipt of the response, the Principal Secretary,
Department of Revenue and Land Reforms, Government of Bihar,
Patna (respondent No 2) examined the matter and called for a report



from the District Magistrate –cum- District Electoral Officer, Saran at Chapra. The said District Magistrate called for a report from the Sub Divisional Officer (for brevity, *SDO*) in relation to the allegations made against the petitioner. The SDO, Sonapur gave his comments on the allegations made against the petitioner vide Annexure 14 to the writ petition which is dated 16.06.2012. The SDO has recommended that minor punishment of warning may be given to the petitioner. Upon such recommendation, the matter was finally decided. After considering the entire aspects of the matter, the impugned order dated 03.02.2014 has been issued by the Principal Secretary (respondent No 2) whereby the punishment of withholding of one annual increment with cumulative effect has been imposed without subjecting the petitioner to any departmental proceeding. The same is a major penalty for which the procedure is prescribed under Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (for brevity, *the Rules*). Although the impugned order suggests that the order is being passed under Rule 14 (V) of the Rules but the same is actually one passed under Rule 14 (VI) of the Rules for which the procedure has to be complied. Since the impugned order has been passed in violation of Rule 17 of the Rules, this Court has no option but to quash the impugned order dated 03.02.2014 passed by the Principal Secretary (respondent No 2).



The writ petition is allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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