

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5646 of 2013

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Niranjan Kumar, aged about 39 years, S/O Sri Ramlakhan Sahu, Resident of
Village- Hemzapur, P.O. Sheokund, P.S. Dharhara, Distt.- Munger

.... Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Agriculture, Govt. Of Bihar, Patna
3. The Deputy Secretary, Department Of Agriculture, Govt. Of Bihar, Patna
4. The Agriculture Production Commissioner, Department Of Agriculture, Bihar,
Patna
5. The Joint Director, Agriculture Directorate, Govt. of Bihar, Patna
6. The Deputy Director (Administration), Agriculture Directorate, Govt. Of Bihar,
Patna
7. The Mission Director, State Horticulture Mission, (Horticulture Directorate),
Govt. of Bihar, Patna
8. The District Horticulture Officer, Darbhanga

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Advocate
For the State : Mr. Arvind Kumar, A.C. to G.A.-9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 14-12-2017

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

2. In this case, the petitioner is challenging the inquiry proceeding as well as the order dated 30.01.2013 passed by the Deputy Secretary, Department of Agriculture, Government of Bihar, Patna, whereby and where-under in exercise of power under



Rule-14(xi) of the Bihar Government Servants (Classification, Control & Appeal), Rules, 2005, dismissed the service of the petitioner as it has been recorded that he was found involved in corruption.

3. The petitioner was posted as District Horticulture Officer, Darbhanga. He was proceeded departmentally as he failed to distribute the cheque of Rs.2000/- to the beneficiary and allegation has also been made that he was involved in corruption of taking money. The petitioner was served the charge-sheet in “prapatra Ka”, inquiry was conducted and Inquiry Officer submitted the inquiry report in detail, wherein he has found that the charges were proved against the petitioner. Whereupon, the petitioner was asked to give second show-cause, which he has filed. The proposed punishment was sent to the Bihar Public Service Commission for its approval, which was refused by the Bihar Public Service Commission, disagreeing with the view of the Bihar Public Service Commission and also disagreeing with the second show-cause filed by the petitioner, the disciplinary authority passed the order of dismissal vide order dated 30.01.2013.

4. A short question has been raised by the petitioner that the order itself discloses that the disciplinary authority while



passing the order of punishment has not considered the second show-cause, which has been filed by the petitioner in detail inasmuch as during the period of inquiry he was not given the proper opportunity to present himself and defend his case. It has been claimed that the petitioner has received all the letters of fixing the date of inquiry after 4-5 days of due date. It has further been submitted that the notices were not sent to the proper address, on that account he failed to participate in the inquiry proceeding.

5. Whereas, learned counsel for the State submits that the notices were given to the petitioner at the proper place. He further submits that the Inquiry Officer used to adjourn the case in presence of the petitioner, which has been refuted by learned counsel for the petitioner.

6. Be that as it may, the order of dismissal does not disclose that the disciplinary authority has applied his judicial mind and has taken cognizance of his defence mentioned in the second show-cause filed by the petitioner. When the disciplinary authority asked the petitioner to submit the second show-cause it was/is expected that the disciplinary authority must consider the second show-cause and deal with the facts mentioned therein, but without any discussion and without taking cognizance of the fact mentioned



in the second show-cause, by a cryptic order the punishment has been awarded, which is not sustainable in law. Reference can be made to the decision of the Hon’ble Supreme Court in the case of **Chairman and Managing Director, United Commercial Bank and others Vs. P.C. Kakkar** reported in **(2003) 4 S.C.C. 364**.

7. In such view of the matter, the order of punishment dated 31.01.2013 is quashed. The matter is remanded back to the disciplinary authority to take decision afresh and pass reasoned order in accordance with law after considering the second-show cause filed by the petitioner. The disciplinary authority will also examine the defence which the petitioner has taken with respect to inquiry proceeding.

8. With the aforesaid observations and directions, this writ application is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	20.12.2017
Transmission Date	N/A.

