

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1995 of 2015

IN

Civil Writ Jurisdiction Case No. 14655 of 2007

- =====
1. The State of Bihar through the Principal Secretary to Government, Road Construction Department Visheshwariya Bhawan, Bailey Road, Patna
 2. Engineer in Chief, Road Construction Department, Bihar, Visheshwariya Bhawan Bailey Road, Patna
 3. Joint Secretary to Government, R.C.D., Bihar, Visheshwariya Bhawan, Bailey Road, Patna
 4. Special Officer cum - Deputy Secretary to Government, Road Construction Department, Bihar, Visheshwariya Bhawan, Bailey Road, Patna
 5. Deputy Secretary to the Government, Road Construction Department, Bihar, Visheshwariya Bhawan, Bailey Road, Patna

.... Appellants

Versus

Jang Bahadur Singh Son of Late Deo Muni Singh, C/o- Dr. Ramauya Singh, Santosh Homeo Dawakhana, Mahatma Gandhi Nagar, Post Gajadhar Ganj, Bazar Samiti Road, Buxar, P.S. Buxar, District Buxar presently residing at Flat No. 102 Pan Vaso Enclave, Ashok Puri, Khajpura, Patna

.... Respondent

=====

Appearance :

For the Appellants : Mr. Patanjali Rishi, A.C. to A.A.G.6

For the Respondents :

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 28-01-2017

Delay of 158 days in filing the appeal is condoned.

2. I.A. No.8842 of 2015 is allowed.

3. Matter is heard on merit.

4. The law laid down by the Hon'ble Supreme Court in the case of *Punjab National Bank & Ors. v. Kunj Behari Misra*, which is AIR 1998 SC 2713, still occupies the field. If the petitioner in the writ application was not found guilty by the enquiry officer and if the



disciplinary authority wanted to disagree with the finding, what was required to be done was to give a clear notice of difference of opinion with the evidence and material, which, in the opinion of the disciplinary authority, would make him disagree with the findings reached and culled out from the enquiry report not otherwise. This was the primary reason why the learned Single Judge allowed the writ application and quashed the order of punishment. The order, therefore, has become subject matter of challenge in the present appeal.

5. Learned counsel for the State tried to prevail upon the Court by bringing to the attention of the Court the notice contained in Annexure-9 of the writ application. This according to State is the notice of difference of opinion and, therefore, urged that the learned Single Judge has committed an error in coming to a conclusion that there was no notice on difference of opinion.

6. The Court has gone through Annexure-9, dated 14.08.2003. It is a second show-cause notice and not a notice of difference of opinion. A reading of the said annexure also does not indicate as to what was the material culled out from the enquiry report, which could form the basis of finding of guilt merely saying that the matter was reviewed departmentally and the private respondent was guilty of all the four charges is going beyond the evidence and material, which had come during the course of enquiry.



7. The learned Single Judge, therefore, has committed no error of law in allowing the writ application. In fact the appeal is misplaced and should be dismissed with suitable cost for frivolous litigation on behalf of the State. The Court was inclined to impose suitable cost upon the State authorities, but on an earnest plea made by A.C. to A.A.G.6, the Court gives a warning to the State authorities to be more careful in future before wasting valuable judicial time.

8. Appeal is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2017
Transmission Date	NA

