

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10359 of 2014

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Pitambar Yadav son of Late Gosai Yadav resident of Galhia, P.S. Pipra, District - Supaul, presently posted as Panchayat Secretary, Parikonch, P.S. + Block - Marauna, District - Supaul

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna
3. The Commissioner, Koshi Division, Saharsa
4. The District Magistrate, Supaul
5. The Deputy Development Commissioner - cum - Conducting Enquiry officer, Supaul
6. The Sub - Divisional Officer, Birpur, District - Supaul
7. The Block Development Officer, Raghopur

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Amrit Abhijat & Manoj Kr Gupta, Advs

For the Respondent/s : Mr Dhurjati Kumar Prasad, GP XIV

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 04-12-2017

Heard counsel for the petitioner and the State.

Some charges were leveled against the petitioner in respect of allegations while posted as Incharge of the flood relief camp. The charge memo is dated 25.07.2009. From Annexure 6 dated 04.01.2011 that is the final order issued by the conducting officer in the proceedings arising out of the said charge memo, it is quite evident that the charges have been found not proved against the petitioner.



Counsel for the petitioner submits that without giving any opportunity to the petitioner or without issuing any show cause, the order (Annexure 7) dated 20.07.2011 has been issued by the District Magistrate, Supaul differing with the findings of the conducting officer and minor penalties have been inflicted upon the petitioner. It is further submitted that the said order is violative of the provisions of Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (for brevity, *the Rules*).

State has filed the counter affidavit, paragraph 7 of the same deals with the allegation made by the petitioner which is as follows:

“7. That the District Magistrate, Supaul having considered the findings of the conducting officer, i e the Deputy Development Commissioner, Supaul and then passed order dated 20.07.2011 in Memo No 958 – 2, as contained in Annexure 7 to the writ petition whereby after warning, the petitioner’s suspension was revoked and he was transferred to Block Marauna from Block Raghapur. It was also directed that for the period of suspension, the petitioner will be payable only subsistence allowance.”

From the pleadings, it is quite obvious that no opportunity of show cause was given to the petitioner before the impugned order was passed by the District Magistrate differing with the findings of the conducting officer favourable to the petitioner.



Since the said order is contrary to the Rules, as noticed above, the order dated 20.07.2011 issued by the District Magistrate, Supaul (Annexure 7) and the appellate order passed by the Commissioner, Koshi Division (Annexure 10) are quashed.

The matter is remitted back to the District Magistrate, Supaul to reconsider the same after complying with the procedure of the Rules in accordance with law.

The writ petition is allowed with the liberty aforesaid.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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