

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19589 of 2012

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Sri Ram Rai Son Of Late Hari Prasad Rai, Resident Of Village- Ghari, P.O. Bhadaula, Police Station- Kudra, District- Kaimur, Presently Residing At Mohalla-Takiya, P.O.- Takiya Bazar, Police Station- Sasaram Town, District- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Rohtas, Sasaram
3. Deputy Collector, Nazarat, Rohtas, Sasaram
4. The Sub-Divisional Officer, Cum-Conducting Officer, Sasaram, District- Rohtas
5. The Block Development Officer, Sasaram, District- Rohtas
6. The Circle Officer, Sasaram, District- Rohtas
7. The Block Agriculture Officer, Sasaram, District- Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Manoj Kumar Manoj

For the Respondent/s : Mr. Rishiraj Sinha, GP19

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 19-08-2017

Challenging the finding recorded by an Enquiry Officer on 11.06.2007 (Annexure 11) and the consequential punishment imposed upon the petitioner vide Annexure-12, withholding of one increment without cumulative effect and confirming the period of suspension this writ petition has been filed under Article 226 of the Constitution.

The petitioner at the relevant time was working as a Peon in the office of Block Office, Sasaram, that in the elections to the Gram Panchayat held in the year 2000, it is alleged against the petitioner that the Election Officer-cum-Block



Development Officer, Sasaram, namely one Shri Vijay Kumar Singh, refused to accept the nomination paper of a female candidate who wanted to contest the election as Mukhiya. On this it is alleged that the petitioner instigated the female candidate to misbehave with the Election Officer. Thereafter she misbehaved with the Election Officer. Based on a written complaint received by the Election Officer Shri Vijay Kumar Singh on 16.09.2006 charge-sheet was issued to the petitioner. When the petitioner denied the charges levelled against him, a departmental enquiry was constituted. A letter dated 11.08.2006 vide Annexure-7 to the writ petition it was communicated that in the departmental proceeding while the Sub Divisional Officer was appointed the Conducting Officer, Shri Vijay Kumar Singh himself was made the Presenting Officer, and without entering the witness and giving any statement the letter of Shri Vijay Kumar Singh was accepted, the finding of guilt was recorded against the petitioner and the impugned punishment was imposed.

Learned counsel for the petitioner challenged the proceeding of the departmental enquiry primarily on two counts. One that Shri Vijay Kumar Singh being the complainant cannot be made the Presenting Officer as he was prosecutor in his own



case and the second contention was that the complaint of Shri Vijay Kumar Singh on 16.09.2006 was accepting in evidence. The complainant Shri Vijay Kumar Singh has not been examined in the departmental proceeding and without granting an opportunity to cross-examine the complainant by the petitioner.

Even though the learned counsel for the State tried to submit that only a minor punishment of withholding of one increment without cumulative effect has been imposed and the allegation levelled against the petitioner in the departmental enquiry stands proved, I am of the considered view that even if a minor punishment has been imposed upon the petitioner the same has adverse consequence on the service career of the petitioner and therefore before taking such penal action opportunity for grant of hearing and the principles of natural justice are required to be followed. In this case, apart from the fact that the complainant Shri Vijay Kumar Singh, Election Officer, acted as a prosecutor, he did not enter the witness box, did not prove the complaint and the charges levelled in the complaint, he was not subjected to cross-examination and based on his written communication dated 16.09.2006 which was made behind the back of the petitioner, the only charge by the



prosecutor is found to be proved.

That being in default followed by the principles of natural justice having been done without following the due process of law I find sufficient reason to allow the writ petition and quash the impugned action.

Accordingly, this writ petition stands allowed. The impugned order dated 12.07.2007 (Annexure-12 to the writ petition) is quashed. Consequential benefits be granted to the petitioner.

(Rajendra Menon, CJ)

mrl./-

AFR/NAFR	NAFR
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