

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8335 of 2018

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Ram Chandra Sharma, Son of Late Bachchu Sharma, present resident of
Adarsh Vihar Colony, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department,
Government of Bihar, Vishwasarya Bhawan, Bailey Road, Patna.
2. Secretary, Rural Works Department, Government of Bihar, Vishwasarya
Bhawan, Bailey Road, Patna (Bihar).
3. Special Secretary, Rural Works Department, Government of Bihar,
Vishwaswaraya Bhawan, Patna (Bihar).
4. Secretary, Planning and Development Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar
For the Respondent/s : Mr. Kumar Alok- Sc7

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 04-05-2018 The petitioner by way of the present writ petition has sought quashing of the second show cause notice, as contained in letter No. 297 dated 12.02.2018 as well as has sought a direction upon the respondents to stay the continuance of the departmental proceeding initiated in Form-'K' dated 18.02.2014 against the petitioner till the pendency of the criminal case.

The learned counsel for the Respondents, at the outset, has referred to the order of this Court dated 12.12.2014 passed in C.W.J.C. No. 17124 of 2014 wherein also the petitioner has sought to raise the same issue, as involved in the present writ petition to the effect that the Respondents be directed not to proceed in the departmental proceeding initiated



against the petitioner till the pendency of the criminal case, however, the petitioner chose not to press the said relief sought for by the petitioner herein and sought to withdraw the present writ petition to the said extent and sought liberty to raise all the issues in the departmental proceeding itself, whereafter by the aforesaid order dated 12.12.2014, this Court had granted permission to the petitioner to withdraw the present writ petition with liberty to the petitioner to raise all the issues in the departmental proceeding itself.

It would be relevant to reproduce hereinbelow the relevant portion of the aforesaid order dated 12.12.2014:-

"The petitioner has filed the present writ petition under Article 226 of the Constitution of India, with twin prayers, firstly, for setting aside the notification no. 2596 dated 06.08.2014 (Annexure -1) issued under the signature of the respondent no. 3, whereby he has been placed under suspension in terms of Rule 9(1)(c) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (in short "Rules, 2005") and secondly, for issuance of a direction to the respondents not to proceed in the departmental proceeding initiated against the petitioner till the pendency of the criminal case viz Economic Offence P.S. Case No. 14 of 2013 pending in the court of learned Special Judge, Vigilance -I, Patna.

At the very outset learned counsel appearing on behalf of the petitioner has submitted that he is not pressing this writ petition so far as the second relief



regarding initiation and continuance of the departmental proceeding is concerned. According to him, now, a departmental proceeding has already been initiated against the petitioner during the pendency of the criminal case, therefore, to that extent he may be permitted to withdraw the writ petition with a liberty to raise all the issues in the departmental proceeding itself.

Permission is accorded.

The writ petition stands dismissed as withdrawn with liberty aforesaid so far second relief is concerned”.

The aforesaid order dated 12.12.2014, on another issue, was challenged by the State Government in L.P.A. No. 606 of 2015 and the learned Division Bench of this Court by an order dated 03.08.2016 directed the Respondents herein to conclude the disciplinary proceeding expeditiously in accordance with law. In fact, the learned Division Bench of this Hon'ble Court by an order dated 23.11.2017 passed in L.P.A. No. 1414 of 2017 has also directed the disciplinary authority, in the case of the petitioner herein, to proceed with the departmental proceeding from the stage of submission of the Inquiry Officer's report.

The learned counsel for the petitioner does not dispute the aforesaid contentions raised by the learned counsel for the Respondents.



Having considered the aforesaid facts and circumstances of the present case, I am of the view that the present writ petition is clearly barred by the principles of res judicata inasmuch as the petitioner himself, in the earlier round of litigation i.e. in C.W.J.C. No. 17214 of 2014, had voluntarily withdrawn the writ petition to the extent of the relief being sought therein regarding issuance of directions to the Respondents not to proceed in the departmental proceeding initiated against the petitioner till the pendency of the criminal case and had also taken liberty, as is clear from the order of this Court dated 12.12.2014, reproduced hereinabove, for raising all the issues in the departmental proceeding itself.

Moreover, the learned Division Bench of this Court, by orders dated 03.08.2016 passed in L.P.A. No. 606 of 2015 and judgment dated 23.11.2017 passed in L.P.A. No. 1414 of 2017 has directed the disciplinary authority to proceed with the departmental proceeding expeditiously from the stage of submission of the Inquiry Officer's report, which in fact is being done by the Respondents, but still the petitioner has sought to challenge the second show cause notice as also has sought the stay of the departmental proceeding, which is in teeth of the aforesaid orders of the learned Division Bench of this Court,



hence, amounts to abuse of the process of the Court.

For the reasons mentioned hereinabove, the writ petition is not only devoid of any merit but is also an abuse of the process of the Court, hence, the same is dismissed.

(Mohit Kumar Shah, J)

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