

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10556 of 2014

=====

Mokhtar Alam @ Md. Mokhtar Alam S/o Late Abdul Shakur resident of Village- Shivrajpur, P.O+ P.S- Navinagar, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar, through The Secretary, Law Department, Bihar, Patna.
2. The Registrar General Patna High Court, Bihar, Patna.
3. The Registrar (Administration), Patna High Court, Patna.
4. The Registrar (Appointment), Patna High Court, Patna.
5. The Officer on Special Duty (O.S.D), Patna High Court, Patna.
6. The District and Session Judge, Aurangabad

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Chaudhary, Advocate
Mr. Prabhakar Singh, Advocate
Mr. Aniket, Advocate
Mr. Rakesh Mohan Singh, Advocate
For the High Court : Mr. Piyush Lall, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 23-01-2018

Heard counsels for the petitioner and the High Court.

2. The petitioner, who was then posted as a Bench Clerk with the Presiding Officer, Fast Track Court (FTC) II, Aurangabad, was proceeded against in relation to the charge of having demanded a sum of Rs.50,000/- for acquittal of the accused persons in Sessions Trial No. 1115 of 2009, from his Mobile no. 9955425802 to the Mobile no. 9470647435 of one Pankaj Sharma, son of the allegationist.

3. In the enquiry proceeding, the voice of the



delinquent/the petitioner was recorded at the Forensic Science Laboratory (for short 'FSL') which submitted a report that voice recorded at the FSL and the voice sample of the delinquent sent separately are probable similar. It has also been recorded by the Enquiry Officer in the enquiry report that in the proceeding the delinquent did not deny the conversation between him and the said Pankaj Sharma. He has also not denied the Mobile phone number to be his. In the written statement it has been recorded that he has admitted that he had talked to the said Pankaj Sharma, but has tried to explain the same by saying that the purpose of the conversation was to negotiate the amount of illegal gratification on behalf of the Presiding Officer of the Court.

4. The Enquiry Officer submitted a report that the allegation against the petitioner could not be proved. The report is Annexure 5 of the writ petition.

5. Upon the matter having been considered by the High Court it was found that the proceedings were conducted in the slipshod manner. After further enquiry, fresh enquiry report was submitted wherein charges were held to be established and proved.

6. It is submitted by the counsel for the petitioner that in the enquiry proceedings no reliable evidence has been produced and



that the same was at the dictates of the appellate authority which is the Standing Committee. It is also submitted that by virtue of such procedure the petitioner has been deprived of his appeal before the appellate authority (Standing Committee). Further ground has been taken that the order whereby the departmental proceedings has been initiated afresh against the petitioner under order dated 23.04.2013, is unsustainable in law.

7. Counsel for the High Court has placed on record a counter affidavit. He draws attention of the Court towards petitioner's reply to the second show cause Annexure 10. He submits that the substance of the same is petitioner's admission of the charges. He has pleaded a mistake, and that in view of the same being his first mistake, he should be pardoned. In view of the aforesaid stand of the petitioner, the charge stands admitted.

8. He also draws the attention of the Court towards the averments made in Para 23 in the counter affidavit filed on behalf of the High Court and submits that the petitioner has a right to file a review/revision in form of a memorandum. He submits that in view of such statutory remedy available to the petitioner under CCA Rules he was not remediless. He also submits that without exhausting the statutory alternative remedy of review or revision, the petitioner has



rushed directly to this Court by way of the present writ petition.

9. In view of the admitted position emerging from Annexure 10, as noticed above, this Court is not inclined to interfere with the punishment imposed upon the petitioner.

10. The writ petition is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	1/2/2018
Transmission Date	

