

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18401 of 2017

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Manoj Kumar Singh, son of Karu Prasad Singh, resident of village Birnaudha,
P.S. Sambhuganj, District - Banka.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Food & Civil Supply Dept.
Govt. of Bihar.
2. Divisional Commissioner, Bhagalpur.
3. District Magistrate, Banka.
4. Additional Collector, Banka.
5. Block Development Officer, Dhoraiya Banka.
6. District Manager, State Food Corporation, Banka.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ray Saurabh Nath, Advocate Mr. Alok Anand, Advocate
For the State	:	Mr. Md. Kamil Akhtar, A.C. to A.A.G-5
for the B.S.F.C.	:	Mr. Shailendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 25-07-2018

Heard learned counsel appearing for the respective
parties.

2. In this case, the petitioner is challenging the order containing memo no.47 dated 03.02.2017, passed by the District Magistrate, Banka, by which the District Magistrate has dismissed the service of the petitioner. Against the aforesaid order, appeal has been preferred by the appellant, the same has also been dismissed by a cryptic order.



3. The petitioner was posted as Jan Sevak- cum- Block Agriculture Officer and he was in-charge of B.S.F.C. godown situated at Dhoraiya, Banka. It appears from the record that altogether 65,369.00 quintal of paddy was purchased and according to the direction 47,410.99 quintal of paddy was handed over to different rice millers, but rest 17,958.01 quintal of paddy was not found in the godown. Allegation has been made that the petitioner has misappropriated huge quantity of paddy.

4. Instead of going to the merit of the case, present writ petition can be disposed of noticing the fact that the inquiry has not been conducted fairly and properly but it was completely a farce inquiry and not sustainable.

5. The petitioner was served a charge-sheet vide memo no.1512 dated 23.08.2016, mentioning the charges levelled against him and whereafter the petitioner has filed the show-cause dated 20.09.2016 addressed to the Inquiry Officer and learned counsel for the petitioner has drawn the attention of this Court that on the same day the Inquiry Officer has submitted the inquiry report dated 20.09.2016, that itself depicts no inquiry was conducted as it appears that already Inquiry Officer has decided or already created the inquiry report prior to



receipt of the show-cause only he has to put the signature on the report, and as such, the inquiry report cannot be approved by this Court. When an inquiry is to be conducted, the Inquiry Officer exercising the jurisdiction of *quasi judicial* authority and he must see the charge are to be proved by proper material evidence as well as oral evidence, inasmuch as, Inquiry Officer has to ensure that the delinquent must get a fair opportunity of his participation and should be allowed to cross-examine the witness, if any, produced by the prosecution as well as he should have been given the proper opportunity of defence. If such procedure is not followed, then it cannot be said to be a fair and proper inquiry. Natural justice is a hall-mark of the inquiry proceeding and when it is missing, in such circumstance, the Court will have no other option but to interfere with the matter.

6. As the inquiry report itself shows that the inquiry was not conducted fairly and properly subsequent action stands vitiate.

7. In such view of the matter, the inquiry report dated 20.09.2016 is quashed. In consequence, the order dated 03.02.2017 passed by the District Magistrate, Banka, and the order of the appellate authority dated 01.07.2017 passed in Appeal Case No.26 of 2016-17 are quashed. The matter is



remanded back to the respondents for conducting fair and proper inquiry after giving proper opportunity to the petitioner for his participation either himself or through his agent as it has been informed that the petitioner is still in custody.

8. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	21.08.2018
Transmission Date	N/A.

