

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3096 of 2017

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Surendra Kumar Vidyarthi Son of Sri Babulal Singh Resident of Village- Latawar,
Police Station- Hisua in the district of Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Patna Zone, Patna.
4. The Deputy Inspector General of Police, Sahabad Range, at Dehri on Sone.
5. The Superintendent of Police, Rohtas at Sasaram.
6. The Dy. S.P. (HQ), Rohtas at Sasaram-cum-Conduction Officer.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate
For the Respondent/s : Md. Nadim Seraj- GP5
Mr. Dharendra Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-08-2018

Heard the parties.

The present writ petition is being disposed of on a short point that has been raised by the petitioner that after the conclusion of inquiry proceeding he was served a show cause vide memo no. 3258 dated 12.08.2016 having been asked him to file his explanation within fifteen days but the inquiry report was not attached with the show cause which is lacuna that the action taken by the competent authority and that too goes to the root of the matter.

Counter affidavit has been filed by the State wherein in paragraph no.12 is reply given to paragraph nos. 12 to 16 of the writ



petition but has not stated a word about service of the inquiry report to the petitioner.

In such view of the matter, the order passed by the disciplinary authority is not sustainable in view of the judgment of the Hon'ble Supreme Court in the case of Managing Director, ECIL Vs. B. Karunakar reported in 1992 (1) SCC 709 and in the case of Union of India Vs. Mohd. Ramzan Khan reported in 1991 (1) SCC 588. In both the judgment the Court has held that service of second show cause alongwith the inquiry report is the part of the natural justice. After submission of the inquiry report by the inquiry officer, it is supposed to serve him enquiry report and ask the explanation on the inquiry report submitted by the inquiry officer.

In the present case that part of procedure has not been followed that led to holding of inquiry proceeding defective. In such view of matter, the order of termination vide Memo No. 3973 dated 26.09.2016 passed by the Superintendent of Police, Rohtas and Memo No. 1997 dated 20.12.2016 passed by the Deputy Inspector General of Police, Sahabad Range, Dehri-on-son are set aside and the matter is remanded back to disciplinary authority who will serve the copy of the inquiry report upon the petitioner and petitioner will be obliged to file his explanation and the Superintendent of Police, Rohtas will be at liberty to take decision in accordance with law.



This Court is not giving any opinion on the merit of the present case and the disciplinary authority will be at liberty to pass a reasoned order in accordance with law. Setting aside the orders will not lead to reinstatement of the petitioner and any payment will be subject to the result of the order passed by the disciplinary authority.

Accordingly this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/Sunny

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	6.8.2018
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