

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.991 of 2014

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Sachidanand Prasad S/O Late Kailash Prasad Sinha Retired Block Agriculture Officer, Asthawa Block, District- Nalanda, At Present Residing In Mohalla- A.G. Colony, P.S.- Ashiana Nagar, District- Patna **Petitioner**

Versus

1. The State Of Bihar Through The Principal Secretary, Government Of Bihar, Patna
2. The Director Of Agriculture, Govt. Of Bihar, Patna
3. The Joint Director Of Agriculture, Magadh Division, Gaya
4. The District Magistrate, Jehanabad
5. The Sub-Divisional Agriculture Officer, Gaya
6. The Block Development Officer, Makhdumpur Block, District- Jehanabad
7. The Accountant General, Bihar, Bir Chand Patel Path, Patna

.... .. **Respondents**

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Appearance :

For the Petitioner : Mr. AJAY KUMAR SINGH, Advocate
For the State : Mr. Rajesh Kumar, AC to GP 3
For the AG, Bihar : Mr. Ram Kinkar Choubey, SC

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 12-07-2018

Heard learned counsel for the petitioner and learned counsel for the State.

Referring to the proceedings conducted against the petitioner under charge memo dated 15.7.2000 it is submitted by learned counsel for the petitioner that the proceedings have been conducted against him grossly in violation of procedure prescribed under Rules 17 & 18 of the Bihar CCA Rules, 2005. It is pointed out that even the charge memo has not been communicated and list of evidence or witnesses on the basis of which charges were sought to be sustained against the petitioner in the proceeding have not been served on him. It is also pointed out that before the Enquiry officer



the Presenting officer has not adduced any evidence. To the contrary he has given his opinion with respect to all the six charges that the charges could not be sustained and were not worthy of proceeding against the petitioner. Without reference to any evidence on record in course of the proceeding, the Enquiry officer has submitted his report to the Disciplinary authority holding that first four out of six charges have been found proved.

The petitioner thereafter was served with the second show cause notice dated 7.2.2003 (Annexure 8) issued by the Deputy Director (Administration), Directorate of Agriculture, Bihar, Patna. In response to the same, the petitioner has submitted his detailed response. Without referring to the various issues raised by the petitioner striking at the root of validity of the proceedings conducted against him he has been visited with the order of punishment dated 18.12.2009 bearing no. 912 issued by the Director of Agriculture, Bihar, Patna (respondent no2) purporting to withdraw 5% of his pension in exercise of power under rule 43 B of the Bihar Service Code. The petitioner was aggrieved by the same as it is submitted that the entire proceedings were conducted without reference to any material and no evidence was produced in the proceedings, as such the enquiry was vitiated on account of violation of Rule 17(14) of the Bihar CCA Rules. 2005.

The petitioner has preferred an elaborate appeal dated



8.3.2010 before the Appellate authority, i.e., the Agriculture Production Commissioner, Government of Bihar, Patna which was dismissed vide communication dated 12.5.2010 holding that the same is not maintainable.

Appeal of the petitioner was rejected on the ground of maintainability. He has preferred a review application under Rule 24(2) of the Bihar CCA Rules, 2005 which is pending consideration before the authorities.

Since, the issues raised by the petitioner strike at the root of the matter and validity of the entire proceedings conducted against the petitioner, this Court is of the opinion that his review application should be disposed of after giving him due opportunity before passing a reasoned and speaking order taking into considerations issues raised by him herein above as well as following the procedure prescribed under the Bihar CCA Rules, 2005, expeditiously and preferably within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is disposed of with the aforesaid observations.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.7.2018
Transmission Date	NA

