

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8569 of 2014

=====

Smt. Kanchan Prakash Wife of Late Akhauri Vijay Prakash Sinha Resident of
House no. 2, Road No. 11, Rajeev Nagar, Post Office- Keshari Nagar, Police
Station- Rajeev Nagar, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department, Government of Bihar, Vikas Bhawan, Patna.
2. The Principal Secretary, Agriculture Department, New Secretariat, Government of Bihar, Vikas Bhawan, Patna.
3. The Agriculture Production Commissioner, Agriculture Department, Government of Bihar, New Secretariat, Patna.
4. The Directorate of Horticulture, Pant Bhawan, Bailey Road, Government of Bihar, Patna.
5. The Principal Secretary, Building Construction Department, Vishwesharaiya Bhawan, Patna.
6. The Director (Administration) -Cum- Additional Secretary, Directorate of Agriculture, New Secretariat, Government of Bihar, Patna.
7. The Directorate of Agriculture, New Secretariat, Government of Bihar, Patna.
8. The Deputy Secretary to Government, Agriculture Department, New Secretariat, Government of Bihar, Patna)
9. The Joint Secretariat, Agriculture Department, Government of Bihar, New Secretariat, Patna.
10. The Accountant (General and Entitlement), Government of Bihar, Patna, Birchand Patel Path, Patna.
11. The District Horticulture Officer, Madhubani, Government of Bihar, Darbhanga.
12. The District Horticulture officer, Darbhanga, Government of Bihar.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Chittaranjan Sinha, Sr. Advocate
Mr. Sanjeet Kumar, Advocate
Mr. Raj Kamal, Advocate

For the State : Mr. Arvind Kumar, AC to GA 9

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 10-01-2018

Heard counsel for the petitioner and the State.

2. Pursuant to this Courts order dated 15.11.2017 the



records of the enquiry have been produced. It appears that the oral evidence of seven witnesses have been recorded.

3. Be that as it may counsel for the petitioner submits that the order of the disciplinary authority Annexure 1 dated 05.05.2008 is unsustainable inasmuch as the same does not show any consideration of the detailed reply to the second show cause which has been submitted by the petitioner on 12.09.2006 as well as 18.02.2007. He submits that non-consideration of the said two replies submitted pursuant to the second show cause is violative of Principles of Natural Justice and in support of his submissions he relies upon a Division Bench judgment of this Court in the case of **Hassan Muzahid vs. the Bihar State Electricity Board** reported in **2015 (4) PLJR 435** more specifically paragraph nos. 7 thereto.

4. On going through the order of the disciplinary authority Annexure 1 this Court finds that it is a one page order which does not show any consideration on the point raised by the petitioner husband in his response in respect to the second show cause. Such order has been passed without taking into account the grounds pleaded by the delinquent employee in his reply to the second show cause. The opportunity granted to the delinquent by issuance of the second show cause has thus been reduced to an empty formality, as has been held in the judgment in the case of **Hassan Muzahid** (supra) relied upon



by the petitioner.

5. Learned senior counsel for the petitioner submits that demise of the delinquent does not effect the consideration of the petitioner’s response to the second show cause as all the materials have already been placed on record.

6. The matter therefore, must be remanded to the disciplinary authority to consider the delinquents response to the second show cause as indicated above and to pass a reasoned and speaking order in accordance with law. Such exercise must been completed within eight weeks from the date of receipt/production of a copy of this order.

7. In view of the aforesaid direction, the order of punishment dated 5.5.2008 is quashed. Petitioner’s entitlement will abide by the decision of the disciplinary authority subsequent to remand by this Court.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	18.01.2018
Transmission Date	

