

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13168 of 2010

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1. Manoj Kumar Rajak S/O Late Hiralal Rajak R/O Vill.- Raghunathpur, P.S.-
Raghunathpur, Distt.- Siwan

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Personal And
Administrative Reforms Department, State Of Bihar, Patna
2. The Under Secretary Personal And Administrative Reforms Department, State
Of Bihar, Patna
3. The District Magistrate, West Champaran
4. Vijay Kumar Prabhat S/O Not Known To The Petitioner Presently Posted As
District Transport Officer, Distt.- West Champaran (Bettiah)
5. Uma Shankar Ram S/O Not Known To The Petitioner Presently Posted As
Director, Nep, Distt.- West Champaran
6. Shailendra Nath S/O Not Known To The Petitioner Presently Posted As District
Panchayat Raj Officer, Distt.- Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chittaranjan Sinha
Mr. Surya Nilambari

For the State : Mr. Mankeshwar Tiwari, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-04-2018

Heard Learned Counsel for the petitioner and Learned
Counsel for the State.

In the present case, the petitioner is challenging the order
dated 11.06.2008 by which he has been inflicted with the
punishment of sensor for the petitioner 2006-2007.

Primarily question has been raised by the petitioner that the
competent authority while passing the order inflicting
punishment to the petitioner did not hear nor considered the



explanation filed by the petitioner and without application of mind has passed the order. It has further been stated that show cause should have been given by the competent authority and after giving hearing he could have passed the order.

In the present case the petitioner at the relevant time was holding the post of Block Development Officer, Narkatiyaganj and he was served a letter dated 20.6.2007 issued by District Magistrate, Bettiah wherein it has been mentioned that Najir and Head clerk did not discharge the duties as they were not maintaining the record properly such as maintaining accounts book which reflects petitioner utterly failed to keep control over his juniors properly inasmuch as did not inform to proper authority rather kept their inefficiency under carpet show cause was issued why he should not be recommended for initiation of departmental enquiry against him. Accordingly the petitioner gave reply to District Magistrate explaining on account of Panchayat Election, Najir and Head Clerk failed to extend support audit party.

Additional Secretary vide order dated 11th June, 2008 has recorded that the explanation of petitioner was not found satisfactory by the District Magistrate and he recommended for punishment of suspension and accordingly the punishment has been awarded.



Submission has been made by the learned counsel for the petitioner that the District Magistrate could have referred the matter to higher authority pointing out his misdemeanor committed by the petitioner who was holding the post of Block Development Officer only after proper proceeding punishment could have been inflicted by the competent authority. But instead of that the District Magistrate sought explanation and order has been passed on the basis of the recommendation given by the District Magistrate which is completely illegal and not sustainable in law. He has further submitted that petitioner should have given a proper hearing which has not been done in the present case.

Learned counsel for the State has tried to justify the action of the State.

From the record it appears that the action has been taken on the basis of the recommendation made by the District Magistrate whereas the competent authority should have issued proper show cause and on receipt of the explanation could have taken a decision by applying his independent mind but the order itself discloses that he has taken action on the recommendation of the District Magistrate which amounts abdicating his power which is not permissible but is illegal action taken by the



concerned authority.

Accordingly the order dated 11th June, 2008 passed by the Additional secretary is set aside. If so advised, they may proceed in accordance with law.

With the aforesaid observation and direction this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.4.2018
Transmission Date	NA

