

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18343 of 2010

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1. Abhiram Jha S/O Late Jaivir Jha R/O Vill.- Vargaon, P.S.- Sonbarsha, Distt.- Sonbarsha, At Present R/O Ram Nagar, Purnea, P.O.- Polytechnic Purnea, Distt.- Purnea

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Patna
2. The Principal Secretary Revenue And Land Reforms Department, Govt. Of Bihar, Patna
3. The Deputy Secretary Revenue And Land Reforms Department, Govt. Of Bihar, Patna
4. The Commissioner, Purnea Division, Purnea
5. The Collector, Kishanganj, Distt.- Kishanganj
6. The Addl. Collector, Kishanganj, Distt.- Kishanganj
7. The Sub-Divisional Officer, Kishanganj, Distt.- Kishanganj
8. The L.R.D.C., Kishanganj, Distt.- Kishanganj
9. The Circle Officer, Thakurganj, Kishanganj, Distt.- Kishanganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhirendra Kumar Jha
For the State : Mr. Prabhat Kumar, AC to GA XI

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-04-2018

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

In the present writ petition, the petitioner is challenging the letter dated 29.9.2010 issued by the Deputy Secretary, Government of Bihar, Patna by which representation has been rejected and further to quash letter dated 2.4.2009 by which he has been dismissed from service.

The petitioner was holding the post of Circle Inspector in



Kosi Division, Saharsa, he was proceeded departmentally given notice, stating therein, that a decision has been taken for initiation of a departmental proceeding. Ultimately order was passed against him, the same was challenged before this Court vide C.W.J.C. No.12479 of 2009, the matter was remanded back on account of failure to observe fair procedure of departmental enquiry. As the petitioner was not given the enquiry report and the document demanded was also not given.

This Court has interfered and remanded back the matter. In pursuance thereof second show cause, including enquiry report was given to the petitioner, he filed a detailed reply but the Deputy Secretary, Government of Bihar vide Memo No.705 dated 29.9.2010 rejected the show cause and passed order against the petitioner.

From the outset it appears that order passed by the Disciplinary Authority is completely per se illegal as cryptic order has been passed, does not give. The order has been passed by the Disciplinary Authority in a peculiar manner itself reflects that he has failed to apply the mind to the merit of the matter as well as to the explanation submitted by the petitioner. This Court finds that the order vide memo no. 705 dated 29.9.2010 is illegal, not sustainable in law, accordingly the



same is quashed and matter is remanded back for fresh consideration by the Disciplinary Authority for passing a reasoned order showing his application of mind to the fact and explanation submitted by the petitioner.

This Court is not giving any opinion on the merit of the case. All benefits given to the petitioner will be subject to the order passed by the Disciplinary Authority.

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

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.5.2018
Transmission Date	NA

