

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14810 of 2011

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Sachida Nand Kumar, S/o Late Baleshwar Kumar, R/o Village – Shankarpur,
Bakhadda, P.S. Motihari, District – Begusarai at present posted as Clerk in
Begusarai Anchal, District Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner-cum- Appellate Authority, Munger,
3. The District Magistrate-cum-Disciplinary Authority, Begusarai,
4. The Additional Collector, Begusarai,
5. The Enquiry Officer-cum-District Panchayat Raj Officer, Begusarai,
6. The Anchal Adhikari, Barauni, District Begusarai.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Shri Prakash Shrivastava, Advocate.

For the Respondent/s : Mr. Manoj Kumar Singh, AC to GA 9.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 03-07-2018

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

The impugned orders under challenge in the Writ
Application are to be set aside for the simple reason that the
statements made in Paragraph 17 of the Writ Application have not at
all been denied in their Counter Affidavit, it is the categorical case of
the petitioner that he was not given any opportunity to cross-examine



the witnesses in the departmental proceedings and further that admittedly copy of the enquiry report was never transmitted / communicated to the petitioner, therefore, in view of the judgment of the Hon'ble Apex Court in the case of **Managing Director, E.C.I.L. Vs. B. Karunakar**, reported in AIR 1994 SC 1074, the order of punishment has to be held bad in law. Despite there being a specific statement in Paragraph 17 to the Writ Application alleging violation of principles of natural justice, while answering the said paragraph, the respondents in Paragraph 13 of the Counter Affidavit has only stated that the order passed by the respondent no. 2 is a reasoned order and the same cannot be vitiated on the grounds stated in this paragraph.

The respondents have failed to controvert the pleadings specifically made in Paragraph 17 of the Writ Application and, therefore, the contention of the petitioner has to be accepted.

The Writ Application is allowed. The impugned orders as contained in Annexures 7 & 9 are set aside. The enquiry officer shall proceed to conclude the enquiry giving an opportunity to the petitioner to participate in the enquiry proceedings, such enquiry should be completed within a period of three months and thereupon the disciplinary authority shall pass the final order after giving an opportunity with a copy of the enquiry report to the petitioner and



upon considering his reply thereto. The disciplinary authority is directed to pass final order within a period of two months from the date of receipt of the enquiry report.

The Writ Application is allowed in the terms stated herein-above.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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