

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13320 of 2018

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Shesh Kumar Son of Ram Chandra Prasad Singh, resident of Village-Shairpur, P.S.- Harnaut, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Department Planning and Development, Govt. of Bihar.
2. The Principal Secretary Department Planning and Development Govt. of Bihar.
3. The Director, Economics and Statistic Govt. of Bihar
4. The Secretary Department of Ruler Department Govt. of Bihar Patna
5. District Magistrate Gaya
6. District Magistrate Muzaffarpur.
7. District Statistic Officer Muzaffarpur
8. District Statistic Officer Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Bihari Tiwary, Adv.

For the Respondent/s : Mr. Akash Chaturvedi, AC to SC11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 04-10-2018

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order dated 12.9.2017 passed by the Director, Department of Planning and Development, Government of Bihar, thereby dismissed him in exercise of power under Rule 14 (XI) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005, the same was challenged before the appellate authority which has also rejected.

In the present case, the departmental proceeding was initiated on the ground that the petitioner was apprehended while taking money amounting Rs. 20,000/- by way of bribe which led



to institution of the Vigilance P.S. Case No. 64 of 2014 for offence under Sections 7/13/(2) read with 13(1)(D) of the Prevention of Corruption Act, 1988, whereafter, a major penalty proceeding was initiated against him and charges were found to be proved which led to passing the order of dismissal, having been conformed by the appellate authority.

Instead of going on the merit of the case, on short point, this petition is being disposed of, as the order of the appellate authority does not disclose that he has applied his judicial mind in view of the fact that he has not discussed the fact as well as the law raised by the petitioner, merely has recorded the allegation part and having held that it is the petitioner who failed to produce the material to show that he was not involved in the alleged commission of offence.

Either in the criminal case or the departmental proceeding, the onus is upon the prosecution, not upon the defence and they have to prove the charge by bringing the material on record. As the order is very much cryptic, hence this Court finds that it is bereft of reason and law and this Court feels that the appellate authority, while discharging the quasi judicial function, was at least required to consider the fact and law which is missing in the present order and, as such, the appellate order contained in



Letter No. 166 dated 11.5.2018 is set aside and the matter is remanded back to the appellate authority who will examine the fact and law involved in the present case and will pass order afresh after giving an opportunity of hearing to the petitioner.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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