

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19331 of 2015

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Mohan Kumar, son of late Jago Chaudhary, resident of Kagaji Mohalla, P.S. –
Biharsharif, District – Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Bihar, Patna.
3. The Secretary, Registration, Excise and Prohibition Department, Bihar,
Patna.
4. The Deputy Secretary, Registration, Excise and Prohibition Department,
Bihar, Patna.
5. The Additional Secretary, Registration, Excise and Prohibition Department,
Bihar, Patna.
6. The Assistant Inspector General of Registration, Excise and Prohibition
Department, Bihar, Patna.
7. The Assistant Inspector General of Registration, Tirhut Division,
Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajiv Kumar Varma, Sr. Advocate Mr. Arun Kumar, Advocate Mr. Md. Hussamuddin Azad, Advocate
For the State	:	Mr. H.S. Roy, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 16-05-2018

Heard learned counsel for the petitioner and the
respondent State.

2. The charge memo against the petitioner was issued on
25.10.2012. The same is alleging that he had been arrested by the
Economic Offence Unit while accepting illegal gratification of Rs.
4500/-. The petitioner has thereafter submitted reply to the
proceedings and the enquiry report was submitted on 14.08.2013 to



the extent that the charges have not been proved in the proceedings.

3. The disciplinary authority thereafter, wrote to the Enquiry Officer under letter dated 20.02.2014 directing the Enquiry Officer to give findings in light of the provisions contained in the Bihar CCA Rules.

4. It is submitted by the counsel for the petitioner that thereafter, the second enquiry report has been submitted on 09.03.2014 where the Enquiry Officer has recorded a finding that the charges against the petitioner have been proved.

5. The submission made on behalf of the petitioner is that between submission of the first enquiry report i.e., 14.08.2013 and the second enquiry report dated 09.03.2014, there were no further proceedings as contemplated under Bihar CCA Rules. Merely the disciplinary authority on 20.02.2014 has directed the Enquiry Officer to submit an enquiry report in accordance with Bihar CCA Rules immediately. Thereafter, within a period of 20 days the Enquiry Officer has recorded a finding that charges have been proved. The same is without reference to any material brought in the proceedings or without giving any opportunity to the petitioner and on such basis the disciplinary authority has thereafter issued the order of punishment which is dated 27.06.2014.

6. Before issuing the order of punishment, the



disciplinary authority had given a second show cause notice to the petitioner and the petitioner has submitted his response dated 28.03.2014. He has highlighted all these aspects of the matter that no opportunity was given and that no proceedings had actually taken place in between submission of the first enquiry report and the second enquiry report. These aspects being not considered by the disciplinary authority while issuing the order of dismissal. Petitioner thereafter has availed of the remedy under the Bihar CCA Rules and filed his application under Rule 24(2) of the Bihar CCA Rules before the competent authority but no order has been passed till date.

7. Since a very comprehensive and detailed application has been made under Rule 24(2) of the Bihar CCA Rules highlighting all these procedural irregularities in the proceedings conducted against the petitioner, this Court would expect that the same be disposed off in accordance with law by a reasoned and speaking order in as much as pendency of the same is prejudicial to the petitioner. Though the same has been filed on 14.10.2010, till date the authority has not found time to consider the same.

8. The respondent no. 3 shall be obliged to dispose off the memorial of the petitioner (Annexure 14) which has been submitted under Rule 24(2) before the respondent no. 3 after a detailed consideration of all these aspects which have also been raised



by the petitioner, including such submissions which have been recorded in the order of this Court within a period of four weeks from the date of receipt/production of a copy of this order in accordance with law.

9. It is made clear that this Court has not expressed any opinion on the merits of the submissions made by the petitioner.

10. The writ petition is disposed off.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

