

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19621 of 2014

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Priya Ranjan Kumar Mehta Son of Late Bishun Deo Mehta Resident of
Village+P.O-Karanja,P.S-Naubatpur,District-Patna-800008.(Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar Patna
2. The Principal Secretary, Department of Home, Government of Bihar, Patna
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Muzaffarpur Zone, Muzaffarpur, (Bihar)
5. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur (Bihar)
6. The Superintendent of Police, Hajipur, Vaishali
7. The Superintendent of Police (c), Crime Investigation Department, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chitranjan Sinha, Sr. Advocate,
Mr. Munna Pd Dixit (M.P. Dixit), Advocate
For the State : Mr. Rajeev Shekhar, AC to GA 13

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 17-07-2018

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

2. Learned senior counsel appearing on behalf of the petitioner has raised various issues regarding proceedings before the Enquiry Officer pursuant to charge memo dated 14.10.2007 being bad in law on account of non-appointment of Presenting Officer and other issues.

3. The specific plea of the petitioner is that when the second show cause was issued to him on 29.02.2012 copy of the



enquiry report submitted by the Sub-Divisional Police Officer dated 10.01.2012 was not made available to the petitioner.

4. Specific averment in this respect is sought to be denied by the respondents. The assertion made by the respondents in the counter affidavit is that since he has filed his reply to the second show cause notice, the allegation is not true. There is no specific assertion that copy of the enquiry report was made available to the petitioner. This Court has gone through the second show cause notice which is Annexure 11 to the writ petition dated 29.02.2012 issued by the Superintendent of Police(c) Criminal Investigation Department, Government of Bihar and the documents enclosed therewith. It is apparent that copy of the enquiry report was not served upon the petitioner and in fact the second show cause notice was issued relying upon the recommendation made by the Deputy Inspector General of Police, Tirhut Range under communication dated 15.02.2012, wherein relying upon the enquiry report, without serving copy thereof on petitioner, and other communications he has recommended the punishment of dismissal on the petitioner.

5. Since non-supply of enquiry report to the delinquent is a major procedural lapse giving rise to a grave occasion of prejudice on account of non-compliance of Principles of Natural Justice, the interest of justice would be served by remanding the matter to the



stage after submission of enquiry report dated 10.01.2012.

6. The proceedings against the petitioner may proceed thereafter by submission of second show cause notice along with copy of the enquiry report and the petitioner may submit his response to the Disciplinary Authority which may be considered in accordance with the procedure prescribed under Rule 18 of the Bihar Government Servants (Classification Control & Appeal) Rules, 2005 (hereinafter referred to as ‘the Bihar CCA Rules, 2005’).

7. Since the said procedure has not been observed, the punishment imposed upon the petitioner as a result of such proceedings held in gross violation of the Principles of Natural Justice as also the procedure prescribed in the Bihar CCA Rules, 2005 is unsustainable. The petitioner would be treated to be under suspension and the Department may proceed against him from the stage after submission of the enquiry report.

8. The writ petition is allowed to the extent indicated hereinabove.

9. On account of suspension, the petitioner would be entitled to all consequential benefits.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

