

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20703 of 2014

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Rambha Kumari wife of Shiv Shankar Prasad, Assistant Teacher, Govt. Middle School , Raksa, Purvi Kanti-2, Marwan; District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resouces Development department , Bihar, Patna.
2. The Director , Primary Education, Human Resources Development ,Department ,Bihar, Patna.
3. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
4. The District Magistrate , Muzaffarpur. null null
5. The District Superintendant of Education , Muzaffarpur.
6. The Area Eduation Officer , Kanti, Muzaffarpur.
7. The Block Education Extension Officer, Kanti-2, Marwan, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pradhan Murli Mohan Prasad, Advocate Mr. Raju Kumar Goshwami, Advocate
For the Respondent/s	:	Mr. Sanjay Prasad, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 10-07-2018

Petitioner is aggrieved by the order contained in Annexure-1 dated 5.9.2011. From the ordersheet, it appears that petitioner was reduced in rank in purported exercise of power under Bihar Governemnt Servants (Classification, Control and Appeal) Rules, 2005. The order of punishment was passed purportedly on consideration of the second show cause notice.

2. From perusal of Annexure-3, it appears that the petitioner was put under suspension in contemplation of the departmental enquiry on 17.6.2008 and thereafter, petitioner was asked to explain his conduct.



3. From the material available on record, it does appear that full dress enquiry was held in the present case for inflicting major punishment. From the materials, it also not clear whether any enquiry was conducted by the respondent or not and whether at the time of issuing second show cause, the enquiry report was enclosed with the second show cause notice or not.

4. This writ application was filed after serving the two advance copies on 8.12.2014 but for four long years, no steps was taken by the respondents to file counter affidavit.

5. Under the aforesaid circumstances, the Court on the basis of the scrutiny of documents including the impugned order is of the view that the order inflicting major punishment was passed in teeth of Article 311 (2) of the Constitution of India as no reasonable opportunity of hearing was afforded to the petitioner.

6. In addition thereto, the provision of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 was also breached by the respondents by passing the order of punishment.

7. Under the aforesaid, circumstances, Annexure-3 cannot sustain. The same is quashed. However, quashing



Annexure-1 will not disentitle the respondents to take afresh decision in accordance with law laid down by the Apex Court in the case of **Managing Director, ECIL, Hyderabad vs. B. Karunakar AIR-(1993) 4 SCC 727** and start proceeding from the initial stage as the impugned order was quashed on account of procedural impropriety in the instant case.

8. With the aforesaid, the writ petition is allowed to the extent indicated above.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.07.2018
Transmission Date	

