

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.777 of 2018

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Ram Sagar Mishra, Son of Ram Lagan Mishra, Resident of Village-Paltu
Belwa, Police Station-Chakia, District-East Champaran (Motihari).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Agriculture Department, Bihar, Patna.
3. The Director Agriculture, Bihar, Patna.
4. The Joint Director (Agronomy), Patna Division, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar, Adv.

For the Respondent/s : Mr. Sanjay Kumar, AC to SC15

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 27-09-2018

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order contained in Memo No. 594 dated 7.5.2014 by which the petitioner has again been put to departmental proceeding withdrawing the earlier order contained in Memo No. 2393 dated 23.7.2010.

The petitioner was working as In-charge Block Agriculture Officer, Chakia, he was caught raid handed while taking bribe of Rs. 2,000/-, was put to vigilance case which was registered as Vigilance P.S. Case No. 116 of 2007 and the petitioner is facing trial, in the meantime, the petitioner was proceeded departmentally, in the departmental enquiry, the finding was recorded in his favour and thereby he was acquitted from the charges. The Departmental Authority has considered the report and accepted the same and, accordingly, vide Memo No.



2393 dated 23.7.2010, he was let off subject to the outcome of the criminal case.

Learned counsel for the petitioner submits that the criminal case is still pending consideration and it has not reached to its finality but, in the meantime, a fresh order has been issued. He further submits that earlier order of acquittal has been reviewed and the departmental proceeding has been revived vide letter no. 594 dated 7.5.2014 as if no enquiry proceeding has been conducted by the Enquiry Officer. It is completely a harassment to the petitioner when everything has been concluded and he has been let off, now reviving the enquiry proceeding violates Article 20(3) of the Constitution of India.

Learned counsel for the State has submitted that the order contained in Memo No. 2393 dated 23.7.2010 (Annexure-3) is a conditional order, it does not completely let off the petitioner rather is subject to the result of the criminal trial.

Having considered the rival contentions of the parties, once the petitioner has been proceeded departmentally, the enquiry officer has submitted its report exonerating the petitioner, the disciplinary authority or the competent authority did not differ and held that he was not required to proceed further and let him off subject to the result of the criminal trial which is still pending against him and no finality has been arrived into. In such circumstances, there is no question of reopening the same episode which has already been closed by a validly constituted Enquiry proceeding. The order of the Director, Agriculture,



Bihar, Patna contained in Memo No. 594 dated 7.5.2014 reviving the proceeding is completely non-est in the eye of law as the person cannot be put to incarceration twice for one cause of action. As the criminal case is pending, there is no question of revival on the same cause of action which has already concluded by the order passed earlier thereby exonerating the petitioner from all the charges.

In that view of the matter, the Memo No. 594 dated 7.5.2014 is quashed. However, it goes without saying that the outcome of the criminal case would affect the future of the petitioner.

The entitlement of the salary will be decided by the authority concerned and this Court is not giving any opinion on its merit.

With the aforementioned observation, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.10.2018
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