

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 5278 of 2015

=====

Bipin Kumar, Son of Sri Sita Ram Singh, Resident of village- Kazichak, P.O. Ramnathpur, Via- Sarmera, P.S. Sarmera, District- Nalanda, at present Resident of Mohalla- Ram Krishannagar, West of Shivaji Chauk, Near V.V. Singh House, House no. h/4, P.O. Khemnichak, Distt. Patna (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Agriculture Production Commissioner, Department of Agriculture, Bihar, Patna.
3. The Principal Secretary-cum-Appellate Authority Agriculture Department, Bihar, Patna.
4. The Director (Administration)-cum-Conducting Officer, Bihar, Patna.
5. The Deputy Secretary, Agriculture Department, Govt. of Bihar, Patna.
6. The Under Secretary, Agriculture Department, Govt. of Bihar, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Satya Ranjan Sinha,
Ms Seema Kumari, Advocates
For the State : Mr Amit Bhushan, AC to GP XVII

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 27-08-2018

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

2 Petitioner has challenged his termination from the post of Junior Plant Conservation Officer before the State Government by filing an application under Rule 24 (2) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity, Bihar CCA Rules). Bare perusal of the order dated 25.02.2015 shows that his application for availing of the departmental remedy under



Rule 24 (2) of the Bihar CCA Rules against the order of punishment dated 06.11.2014 has been rejected merely for the fact that instead of mentioning Review, he has mentioned Appeal in the application which he has submitted.

3 Rule 24 (2) of the Bihar CCA Rules provides the remedy of Appeal as well as the Review in the form of Memorial. Since the petitioner's application under Rule 24 (2) of the Bihar CCA Rules was already before the competent authority, this Court would observe that rejecting the same only by assigning a reason that it was not filed with proper nomenclature is undesirable and interest of justice demands that the petitioner's application under Rule 24 (2) of the Bihar CCA Rules be considered by the competent authority.

4 Learned counsel for the petitioner is permitted to file a fresh Review Petition under Rule 24 (2) of the Bihar CCA Rules in the form of Memorial before the competent authority. If the petitioner is desirous of availing the departmental remedy, he should file his application within a period of four weeks from today. Since the order dated 25.02.2015 has rejected the petitioner's application without considering the same on merit, the order dated 25.02.2015 bearing Memo No 61 is quashed.

5 The respondent-authority would be obliged to consider and dispose of the petitioner's Review Application upon its own merit



without raising the issue of the same being delayed or time barred.

6 Writ petition is allowed to the extent indicated above.

7 It would be open to the petitioner to raise all issues including the fact that CWJC No 9662 of 2016 has been decided wherein another person, similarly situated as the petitioner, has been granted same relief by this Court.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.08.2018
Transmission Date	NA

