

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.824 of 2018

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Gyan Prakash Srivastava, S/o Late Raghunath Prasad, R/o Rajeev Nagar,
Road Number 8, P.S. Patliputra, District- Patna- 800023, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Principal Secretary, Department of Animal and Fisheries Resources,
Government of Bihar, Patna.
3. Director, Department of Animal and Fisheries Resources, Government of
Bihar, Patna.
4. Special Secretary-cum-enquiry Officer, Department of Animal and Fisheries
Resources, Government of Bihar, Patna.
5. Under Secretary, Department of Animal and Fisheries Resources, Government
of Bihar, Patna.
6. Joint Secretary, Department of Animal and Fisheries Resources, Government
of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Kumar Kaushik, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha-S.C.-19 Smt. Archana Prasad, A.C. to S.C.-19

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 04-09-2018

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

2. In this case, learned counsel for the petitioner has
drawn the attention of this Court to the inquiry report, in which
the Inquiry Officer has recorded that *prima facie* the case is
made out against the petitioner, but the outcome of the Vigilance



case vide Vigilance P.S. Case No.133 of 2007 would affect the future of the petitioner and has not recorded any finding with regard to proving the charge against the petitioner, is the basis for passing the order containing memo no.354 dated 26.02.2014 by the Director, Department of Animal and Fisheries Resources-cum-Disciplinary Authority, dismissed the petitioner from service, which has been affirmed by the Principal Secretary, Department of Animal and Fisheries Resources -cum- Appellate Authority vide order containing memo no.353 dated 19.12.2017.

3. Learned counsel for the petitioner submits that earlier the Inquiry Officer has stayed the proceeding on account of pendency of criminal case and this time there is no clear cut finding recorded by the Inquiry Officer against the petitioner, but only recorded that *prima facie* the case is made out against the petitioner, cannot be said to be a finding on the charge of the guilt and cannot be fundamentally basis for passing the order of the dismissal against the petitioner. It has further been submitted that even the copy of F.I.R. was not supplied to the petitioner during the inquiry proceeding.

4. The plea of non-supply of F.I.R. cannot be sustained as he is an accused must have been received the F.I.R., but it is a fact that the prosecution has to prove the guilt by



bringing the admissible evidence against the petitioner, which has not been done in the present case.

5. In such view of the matter, the order passed by by the Disciplinary Authority containing memo no.354 dated 26.02.2014 as well as the order passed by the Appellate Authority containing memo no.353 dated 19.12.2017 are quashed. The matter is remanded back to the Disciplinary Authority for fresh consideration. Though the criminal case is pending for more than 10 years but the department has failed to conclude the prosecution witnesses, in such circumstance, this Court directs that the Inquiry proceeding should be completed without any delay and conclude the same preferably within a period of six months from the date of receipt/production of a copy of this order by bringing the valid and proper evidence. The Inquiry Officer would submit the report on the basis of the materials available with him with regard to alleged misconduct made against the petitioner. It is expected that the petitioner would cooperate in early disposal of the inquiry proceeding. If he fails to co-operate in the inquiry proceeding, the Disciplinary Authority will be at liberty to complete the inquiry *ex parte*.

6. At this stage, it has been informed that the petitioner has already been superannuated. If that be so, the



proceeding will be converted under Section 43(b) of the Bihar Pension Rules.

7. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	06.09.2018
Transmission Date	N/A.

