

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1464 of 2017

Arising out of

C.W.J.C. No. 13007 of 2016

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1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
 2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
 3. The Deputy Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
 4. The Bihar State Food Commission, through its Member Secretary, Old Secretariate, Patna, Bihar.

... .. Appellant/s

Versus

1. Md. Ata Karim, son of Md. Muslim, R/o Village - Birdipur, P.O. - Arai, Birdipur, P.S. - Simri, District - Darbhanga.
2. Dr. Asmotullah Bukhari, Son of Late Abdul Barkat, resident of Village Bari Ballia, Dakhini, P.S.- Ballia, District- Gopalganj.
3. Md. Salaam, son of Late Md. Sammadin, resident of Village- Dilawarpur, P.S.- Munger, P.S. Kotwali, District- Munger, Currently Chairman of Bihar State Food Commission.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Lalit Kishore, Advocate General Mr. S. Raza Ahmad, AAG-5 Mr. Alok Ranjan, A.C. to AAG-5
For the Respondent/s	:	Mr. Y.V. Giri, Advocate Mr. Ashish Giri, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-03-2018

Delay of 19 days in filing of this appeal is condoned. I.A. No. 7559 of 2017 stands allowed and disposed of.

Having heard learned counsel for the parties, we find that the writ petition was primarily allowed on two counts.



The first was that the original petitioner was removed from the office of Chairman of the Bihar State Food Commission in violation to the principles of natural justice inasmuch as he was not granted reasonable opportunity to defend the allegations levelled against him. The second ground was that the action has not been taken by the State Government which is only competent to remove the officer from the post in question.

As far as the first ground is concerned, we find that the learned Writ Court has gone into various aspects pertaining to grant of reasonable opportunity and the finding recorded is that opportunity to defend against the charges of financial irregularities was not granted and, therefore, this was one of the reasons why the learned Writ Court has interfered into the matter. In doing so, we are of the considered view that the Writ Court has not committed any error and the order of the Writ Court has to be sustained on this ground. The second ground with regard to power of the State need not be looked into now in this appeal. It is kept open to be considered at the time of taking final action after a detailed inquiry or grant of opportunity is made to the original petitioner.

Finding no error in the order passed by the learned Writ Court with regard to denial of opportunity before removing



the incumbent from the office, we dispose of the matter granting liberty to the State Government to proceed in accordance with law, in case they feel that action is to be taken against the respondent employee for the allegations levelled against him.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	08.03.2018
Transmission Date	

