

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1803 of 2017**

**In**  
**Civil Writ Jurisdiction Case No.16709 of 2016**

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1. The State of Bihar.
  2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
  3. The Joint Secretary, General Administration Department, Govt. of Bihar, Patna.
  4. The Under Secretary, General Administration Department, Govt. of Bihar, Patna.
  5. The Joint Commissioner, Departmental Enquiry, Patna Division, Patna.
  6. The District Magistrate, Rohtas, Sasaram.
  7. The Deputy Development Commissioner, Rohtas, Sasaram.

... .. Appellant/s

Versus

Shaligram Sah, S/o Sri Lakhan Lal Sah, R/o 101, Pinevilla Apartment, Road No. 15, Patel Nagar, P.S. - Shastri Nagar, District - Patna.

... .. Respondent/s

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**Appearance :**

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| For the Appellant/s  | : | Mr. Nadeem Seraj, G.P.5        |
| For the Respondent/s | : | Mr. Amit Shrivastava, Advocate |
|                      |   | Mr. Girish Pandey, Advocate    |
|                      |   | Mr. Sanjeev Nikes, Advocate    |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 20-07-2018**

This is an unfortunate case, which has come in hand before us, wherein the State Government has filed the Letters Patent Appeal without any justification again in a mechanical



manner as was done in the original case while taking disciplinary action. If we go through the order passed by the learned Writ Court on 07.08.2017, we find that the learned Writ Court has recorded the following observations:-

“As I have said, the case in hand is a classic example of the leisure time with the State to involve its employees in frivolous disciplinary proceeding which is founded on even frivolous charges. Annexure-1 is the charge and while charge No.1 alleges irregularities against the petitioner in the matter of allotment of houses under the Indira Awas Yojana, Charge No.2 alleges insensitiveness on his part in the allotment process. There is no allegation in either of the two charges whether the allotment is accompanied with motivated action or for unjustful gains.”

The learned Writ Court went into the issue on merits and found that in the matter of allotment of house under the *Indira Awas Yojana*, a departmental enquiry was conducted against the writ petitioner-respondent and in page 3 of the order impugned the entire finding of the enquiry officer has been recorded and the enquiry officer in his finding goes to say that the writ petitioner-respondent is not guilty of misconduct. At best, because of the amount of work entrusted to him added with the shortage of hands, he may not have been responsible in not following the guidelines meticulously, there is no ill motive, mala fide or intentional or



deliberate acts. The enquiry officer, therefore, held that the allegations of misconduct are not proved. It is only a case of not following the guidelines in its letter and spirit, meaning thereby that the enquiry officer has only found that the allegations of misconduct are not correct. The allegation is not that the writ petitioner did not discharge his duty diligently or has discharged his duty with a motivated mind and there is nothing available on record to show that the employee has been consistent or habitual in doing work in such manner. The learned Writ Court has relied upon the law laid down by the Hon'ble Supreme Court in the case of **Union of India vs. J. Ahmad, reported in (1979) 2 SCC 286** wherein para 11 of the said judgment was considered and held that in such a case punishment could not be imposed.

We may take note of the fact that the enquiry report, as is re-produced in page-3 of the order impugned, was accepted by the disciplinary authority without disagreeing with it. In spite thereof, after reasonable order has been passed by the Writ Court, again this LPA has been filed by the competent authority, in our considered view, again mechanically without application of mind, even without considering the legal question involved in the matter. It is a case where even if the facts and circumstances, as indicated above, are accepted, it is only a case where the employee may



have violated the guidelines that also because of the reasons recorded by the enquiry officer, i.e due to paucity of hands to deal with the matter, non-cooperation from the co-workers and certain acts attributed to the working of the bank. Once that was the position of the enquiry, the writ Court has rightly interfered into the matter.

We see no reason as to why the Letters Patent Appeal was filed with regard to such an issue where not even an iota of evidence is available to show that the integrity or the conduct of the employee was such that it has created any loss to the exchequer of the State. It is a case where the LPA is filed by the State Government without any justification.

Even though we were inclined to impose a heavy cost on the State Government, but keeping in view the prayer made by the counsel representing the State Government that the State Government will be careful in future, we are not proceeding to impose any cost into matter. The matter be brought to the notice of the Chief Secretary, Government of Bihar and he be warned not to file frivolous petitions merely because they are not held responsible or any coercive action is not taken by this Court in interfering into such appeals filed by the State Government.



With the aforesaid observations and directions, the  
Letters Patent Appeal stands dismissed.

Interim order passed on 17.05.2018 stands vacated.

**(Rajendra Menon, CJ)**

**( Rajeev Ranjan Prasad, J)**

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