

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5655 of 2015

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Ramji Prasad son of Late Bhatu Prasad, Resident of Mohalla- Naya Tola,
Madhopur, Bakhtiyarpur, P.O. and P.S. Bakhtiyarpur, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Joint Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Engineer-in-Chief-cum-Additional Secretary-cum-Special Secretary, Rural Works Department, Gover
5. The Additional Secretary, Rural Works Department, Government of Bihar, Patna.
6. The Deputy Secretary, Rural Works Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.S.B.K Mangalam, Advocate Mr. Chandan, Advocate
For the Respondent/s	:	Mr. Manish Kumar, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 26-02-2019

The writ petition has been filed challenging the petitioner's dismissal under order dated 24.03.2015 issued by the Engineer-in-Chief-cum-Additional Secretary-cum-Special Secretary, Rural Works Department.

The specific assertion of the petitioner in the writ petition is that the punishment has been inflicted upon the petitioner without affording him an opportunity of personal hearing in the enquiry. During pendency of the writ petition the appeal was also filed by the petitioner before the Appellate Authority being



the Principal Secretary of the Rural Works Department, Government of Bihar. In para 15 of the appeal also petitioner has made specific assertion that no opportunity of hearing was provided to the petitioner. The issue regarding non-compliance with the procedure prescribed under Rule 17 of the Bihar Government Servants (Classification Control & Appeal) Rules, 2005, (for short 'the Bihar CCA Rules, 2005') by depriving the petitioner his opportunity of hearing in the enquiry was a serious issue which was required to be looked into by the Appellate Authority. Without even dealing with the said assertion, a cryptic order has been passed by the Appellate Authority dated 25.06.2015 rejecting the appeal of the petitioner. The Bihar CCA Rules, 2005 casts an obligation upon the Appellate Authority to consider the appeal. The procedure for consideration of appeal is specifically provided under Rule 27 of the Bihar CCA Rules, 2005. The Rule does not contemplate passing of such a cryptic order as has been done on 25.06.2015 by the Appellate Authority in the instant case.

The order of the Appellate Authority dated 25.06.2015 is therefore, quashed. The Appellate Authority should consider the petitioner's specific assertion regarding denial of opportunity of hearing in the proceedings with reference to the records of the



enquiry and take decision afresh.

It is needless to say that if no opportunity of hearing was granted to the petitioner in the enquiry, the order passed as a result of such an enquiry would be highly unsustainable not only as per the procedure prescribed under the Bihar CCA Rules, 2005 but also violative of Principles of Natural Justice and fair play.

Let a final order be passed by the respondent no. 2 within a period of three months from the date of receipt/production of a copy of this order.

Writ petition is allowed to the extent indicated herein above.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

