

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12102 of 2014

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Md. Mustaque Son of Md. Mohiuddin, resident of Mohalla- Bhokrahi, P.S.-
Kishanpur, District- Supaul

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Road Construction Department, Path Pramandal, Bihar, Patna
3. The Joint Secretary, Road Construction Department, Path Pramandal, Bihar, Patna
4. The Deputy Secretary Vigilance, Road Construction Department, Path Pramandal, Bihar, Patna
5. The Superintending Engineer, Road Construction Department, Path Anchal, Saharsa
6. The Executive Engineer, Road Construction Department, Path Pramandal, Saharsa
7. The Executive Engineer, Road Construction Department, Path Pramandal, Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bindhyachal Singh, Advocate Mr. Niranjan Kumar, Advocate Ms. Smita Pd, Advocate
For the State	:	Mr. Mujtabaul Haque, GP 12 Mr. Vasant Vikas, AC to GP 12.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 25-03-2019

Mr. Singh appearing for the petitioner submits that the order of punishment dated 11.04.2014 issued by the Superintending Engineer, Road Construction Department is without waiting for the petitioner to submit his response to the charge memo 'Prapatra K' which is dated 03.02.2014.

2. It is submitted that the petitioner had appeared before the Enquiry Officer on 31.03.2014 and 10.04.2014. However, he



was yet to respond to the charges communicated under 'Prapatra K'.

3. The issue has to be examined with reference to the records. Since the remedy of appeal is available to the petitioner before the appropriate authority under Rule 24 of the Bihar CCA Rules, 2005, this Court would refrain from making any expression on the submission of the petitioner's counsel or the submission of the State counsel to the extent that having chosen not to avail of the opportunity granted to the petitioner by the respondents, petitioner cannot be permitted to allege non-violation of procedure of Principle of Natural Justice. Such submission is founded on the decision of the Apex Court in the case of **Board of Directors vs. K.C. Rahi** reported in **(2008) 11 SCC 502**.

4. Since the matter is yet to be decided by the Appellate Authority, this Court would refrain from making any observation on the submission of the counsel for the parties. If the petitioner approaches the Appellate Authority within four weeks, the appeal of the petitioner should be considered without raising the issue of delay, having regard to the fact that the matter had been pending before this Court. The Appellate Authority should finally dispose of the appeal expeditiously and



preferably within three months thereafter. The Appellate Authority will be obliged to consider the petitioner’s appeal on its own merit.

5.Any observation in this order may not be considered as an expression of opinion on the rival submissions.

6. Writ petition stands disposed off.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

