

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.371 of 2019

In

Civil Writ Jurisdiction Case No.13984 of 2008

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1. The State of Bihar through the Principal Secretary, Road Construction Department, Vishwesharaya Bhawan, P.S.- Shastrinagar, District- Patna.
 2. The Secretary, Road Construction Department, Vishwesharaya Bhawan, P.S.- Shastrinagar, District- Patna.
 3. The Secretary, Building Construction and Housing Department, Vishwesharaya Bhawan, P.S.- Shastrinagar, District- Patna.
 4. The Engineer-in-Chief, Road Construction Department, Vishwesharaya Bhawan, P.S.- Shastrinagar, District- Patna.
 5. The Deputy Secretary to Government (Vig.), Road Construction Department, Bihar, Patna.
 6. The Chief Engineer (South), Building Construction Department, Patna.
 7. The Executing Engineer, Building Division, Building Construction Department, Supaul.
 8. The Assistant Engineer Building Sub-Division, Building Construction, Department, Birpur.
 9. The Sub Divisional Officer, Building Sub-Division, Building Construction Department, Supaul.

... .. Appellant/s

Versus

1. Manoj Kumar Ranjan S/o Sri Basudeo Malakar Resident of Village- Baisha, P.S.- Parwata, District- Khagaria.
2. The Branch Manager, State Bank of India, Mahavir Chawak Branch, Supaul.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.K. Verma, A.A.G. 3 Mr. Saroj Kumar Sharma, A.C. to A.A.G. 3
For the Respondent/s	:	Mr. Rupak Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-04-2019

I.A. No. 2 of 2019

Having heard learned Counsel for the parties, we are



satisfied that the delay has been sufficiently explained. The delay condonation application is allowed. The appeal shall be treated to be within time.

L.P.A. No. 371 of 2019

Heard learned counsel for the appellant State of Bihar Shri P.K. Verma, learned A.A.G., and Shri Rupak Kumar, learned counsel for the respondent-petitioner.

The contention raised on behalf of the appellant is that the learned Single Judge has overlooked the evidence on record and has erroneously arrived at the conclusion that the enquiry proceedings are vitiated for want of evidence and oral enquiry.

For this, Shri Verma has invited the attention of the Court to the report of the Lokayukta whereafter the enquiry was conducted and the respondent was charge-sheeted. Relying on certain Annexures of the said report relating to charge No. 4 therein, he submits that, as a matter of fact, the respondent-petitioner had not denied the receipt of rupees three lacs and what was denied by him was that it had not been received for the project on the basis whereof the allegation has been made. He, therefore, submits that there is no denial of the receipt of the money, the allegation whereof is about misappropriation. Whether it was for a particular project or not, the Lokayukta had



found that the money had not been utilized at all.

The defence taken during enquiry by the respondent-petitioner was that neither any such money was allocated nor received for the stated project and, therefore, the allegations were unfounded and there was no basis at all to substantiate the said charge. It was also the case of the respondent-petitioner that the enquiry report nowhere mentions holding of an oral enquiry or leading of any evidence so as to substantiate the charge on which the respondent-petitioner was sought to be punished. In such circumstances, the punishment order was invalid and, consequently, the appellate order had to fall through for the same reasons. In the said background, the learned Single Judge has not committed any error in quashing the impugned orders on account of a serious and gross irregularity in the procedure said to have been followed by the appellant while conducting the enquiry.

Having considered the submissions raised, we find that the conclusion drawn by the learned Single Judge does not suffer from any infirmity insofar as the procedural lapses are concerned. The oral enquiry or even the production of the original documents or receipt was necessary in order to establish as to whether the appellant had actually received the amount



before arriving at the conclusion of its misappropriation. The recommendations made by the Lokayukta had to be examined in the regular enquiry proceedings which, in our opinion, does not appear to have been done by leading appropriate evidence. It is, therefore, clear that in the absence of any such evidence having been led and the oral evidence having not been adduced, the learned Single Judge was justified in quashing the impugned orders. We are, therefore, not inclined to interfere with the same.

The appeal lacks merit and is, accordingly, rejected without prejudice to the appellant State to initiate proceedings afresh from the stage of submission of charge-sheet and leading of evidence.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

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