

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.872 of 2017

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Ram Manohar Singh Son of Pabrit Singh, resident of Village- Ratanpur,
Police -Station- Gidhour, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Government of Bihar,
New Secretariat, Patna.
3. The Director, Secondary Education, Department of Education, Government
of Bihar, New Secretariat, P
4. The District Magistrate, Munger.
5. The Regional Deputy Director of Education, Munger.
6. The Sub- Divisional Officer, Tarapur Munger.
7. The District Education Officer, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.K. Sinha, Sr. Adv. Mr. Shyamlendra Kumar, Adv.
For the Respondent/s	:	Mr. Kameshwar Kumar, GP-17

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 15-07-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

Petitioner has challenged the office order contained in
Annexure-15 whereby the respondent Director, Secretary
Education forfeited 50% pension of the petitioner.

Mr. D.K. Sinha, learned Senior counsel appearing on
behalf of petitioner submits that the order contained Annexure-
15 was passed without any enquiry and without following the
principles of natural justice.



Learned counsel appearing on behalf of respondents has submitted that Annexure-15 contains the reason for action by the respondents. From the perusal of Annexure-15 it does not appear that full fledged enquiry was conducted in the instant case. There is no material that second show cause notice alongwith enquiry report was served on the petitioner.

Learned counsel for the petitioner has specifically raised the issue of non-conduct of departmental proceeding in accordance with law. There is also statement to the effect that the petitioner was not served with the second show cause notice. The counter affidavit filed on behalf of respondents is only an empty averment and there is no parawise reply. The contention in support of the order contained in Annexure-15 discussed in the paragraph nos. 6, 7, 8, 9 and 10 which is quoted herein below:-

“6. That it is humbly submitted that vide Memo No. 3638 dated 29.10.2009 memo of charge has been framed against the petitioner by the Director, Secondary Education, Bihar, Patna and explanation/show cause was asked to the petitioner.

7. That it is further submitted that vide memo No. 3637 dated 29.10.2009, the Regional Deputy Director of Education, Munger was appointed and the District Education Officer, Munger was appointed as Presenting Officer in the



said departmental proceeding.

8. That in the proceeding after hearing he parties and considering the material available on record the petitioner was found guilty for not discharged his duty properly as a Head Master in the school and was also involved in financial irregularities and therefore the Enquiry Officer, vide letter No. 57 dated 26.03.2014 submitted enquiry report to the Director, Secondary Education, Bihar, Patna.

9. That it is humbly stated that the petitioner superannuated from service on 31.01.2011 as a Head Master of Rani Prabhawati High School, Sangrampur during the pendency of the departmental proceeding, which has been converted after superannuation under Rule 43B of the Bihar Pension Rules and subsequent thereto in light of enquiry report submitted by the Enquiry Officer, the Director, Secondary Education, Government of Bihar, Patna vide Memo No. 913 dated 25.04.2016 passed order for deduction of 50% of the pension of the petitioner, which is legal, valid and justified.

10. That it is further respectfully submitted that taking into consideration the aforesaid facts, the reliefs asked for by the petitioner in the instant writ application is not maintainable and the same is fit to be rejected having no substance.”

From perusal of para 6 to 10 of the counter affidavit it appears that the formality was completed by the respondent by



filing counter affidavit in the present case. The respondents have not denied the specific averment as to non service of second show cause notice while taking decision in the matter of inflicting punishment. Since, the respondents have taken a decision to 50% pension to the petitioner which is major punishment as forfeiture of 50% pension has the effect of grave consequence.

Under the aforesaid circumstanced, when the procedural requirement for conduct of departmental proceeding and inflicting punishment including the punishment under the Bihar Pension Rules was not followed by the respondents the Court is constrained to allow the writ application by quashing Annexure-15. Respondents are directed to grant all consequential benefits to the petitioner an quashing Annexure-15.

With the aforesaid, the present writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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