

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 5112 of 2015

=====

Raghubir Mandal son of Late Kanchan Mahto, resident of Village- Arma
Bansipur, P.S.- Kazra, District- Lakhisarai

... .. Petitioner/s

Versus

1. The State Of Bihar through the District Magistrate, Sheikhpura
2. The Divisional Commissioner, Munger Division, Munger.
3. The District Magistrate, Sheikhpura.
4. The Addl Collector, Sheikhpura.
5. The Circle Officer Ariari Circle, Sheikhpura.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : M/s Siya Ram Sahi & Anil Kr Singh, Advocates
For the Respondent/s : Mr H S Roy, AC to AG

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 15-01-2019

Heard Mr Siya Ram Sahi appearing for the petitioner
and Mr H S Roy, learned AC to AG.

2 The petitioner is aggrieved by his dismissal from service pursuant to the duly constituted proceedings. The proceedings have been initiated on the basis of charge memo issued on Prapatra *Ka* (Annexure 11 to the writ petition). The sum and substance of the charge is that the petitioner, while working as Revenue Karamchari, has issued six Land Position Certificates (for brevity, *LPCs*) which were issued in favour of persons in respect of whom there was no *Jamabandi* and who were not recorded *raiyyats* of the land in question.



3 From the records, it is evident that in the proceedings, the petitioner had made a request for legal representation which was allowed by the authorities. He was represented in the proceeding through a counsel throughout. Before the Enquiry Officer in respect of the charges, an admission was made on behalf of the petitioner that the six LPCs were issued by him and were under his signature.

4 Mr Sahi, appearing in support of the writ petition, submits that even if there is an admission on record as has been taken note of in the Enquiry Report dated 30.01.2012 (Annexure 9), the charges were to be brought home by the authorities in accordance with the procedure prescribed under Rule 17 (14) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity, *Bihar CCA Rules, 2005*). It is his submission that there is a gross failure by the authorities in complying with the provisions contained in Rule 17 (14) of the Bihar CCA Rules, 2005 which casts a duty upon the Presenting Officer to submit oral and documentary evidence in respect of the articles of charges and only thereafter, a finding of guilt could have been recorded against the petitioner. On account of such failure, in complying with the procedure prescribed, the petitioner has been prejudiced in the proceedings and, as such, the findings of the Enquiry Officer as well as the punishment imposed upon the



petitioner under order dated 20.07.2012 by the Collector -cum- District Magistrate, Sheikhpura dismissing him from service is unsustainable in law. Petitioner has also assailed the order dated 01.06.2013 passed on his Service Appeal No 50 of 2012 by the Divisional Commissioner, Munger affirming the order dated 20.07.2012.

5 Learned counsel for the State, on the other hand, has drawn the attention of the Court towards the charge memo *Prapatra Ka*. Although there are four charges enumerated in the charge memo but the latter three are only a sequence of a further elaboration of the charge contained in charge No 1. Charge No 1 is regarding issuance of LPCs in favour of persons who were not recorded *Jamabandi* raiyats in the revenue records. On account of issuance of such false LPCs, charges No 2 and 4 have been levelled alleging that petitioner has fabricated the said LPCs in collusion with the beneficiaries. Charge No 3 is also an another facet of the same transaction inasmuch as based on the false LPCs issued by the petitioner, the beneficiaries have obtained loans from the Banks. It is submitted by the learned State Counsel that the LPCs were produced in course of the enquiry as is evident from the findings of the Enquiry Officer in respect of Charge No 1. After going through the six LPCs, which were produced in the enquiry, petitioner has consciously accepted the issuance of the



same under his own signature. Referring to the second show cause filed by the petitioner, it is further pointed out that even at the stage of the second show cause, petitioner has consciously accepted the same under his reply dated 22.02.2012 (Annexure 12). In paragraphs 3 and 5 of his response to second show cause notice, he has admitted issuing the LPCs only relying upon the old receipts issued to the applicants earlier. Instead of going through the entitlement of the applicants on the basis of the records in the office, he has placed reliance on certain receipts issued allegedly in favour of the applicants for the earlier years. In order to explain such lapse, petitioner has raised a plea that he was overburdened with work and, therefore, for this reason, he has tried to take a shortcut in the matter. Such plea, in the opinion of this Court, is legally unsustainable.

6 Petitioner's reliance on Rule 17 (14) of the Bihar CCA Rules, 2005 and decision in the case of *State of Uttar Pradesh & Others -Versus- Saroj Kumar Sinha (2010) 2 Supreme Court Cases 772* will have no application in the facts and circumstances of the case.

7 In view of the specific admission of the petitioner throughout the proceedings which is borne from the records, it does not lay in the mouth of the petitioner to contend that anything more was required to be done other than confronting him with the



LPCs. Once upon seeing the same, he has admitted issuing the same under his signature and, thereafter, there is specific admission in respect thereof in his response to second show cause notice, nothing further was required to be done in the matter. The respondents have adopted the due procedure prescribed under the Bihar CCA Rules by issuing *Prapatra Ka* affording he petitioner opportunity before the Enquiry Officer, issuing a second show cause notice and after considering the same, the impugned order has been passed on the basis of specific admission of the petitioner. This Court, therefore, is not inclined to interfere with the order passed by the Disciplinary Authority.

8 In view of the order passed by the Disciplinary Authority being found legal, there is no scope to interfere with the order passed by the appellate Authority affirming the conclusions of the Disciplinary Authority.

9 The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2019
Transmission Date	NA

