

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13993 of 2019

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Pramod Kumar Son of Late Gariban Thakur Resident of Village- Jamalpur,
P.O.- Nadaul, P.S.- Masaudhi, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through its Principal Secretary, Department of
Department of Revenue, Government of Bihar, Patna.
2. The Principal Secretary Department of Department of Revenue, Government
of Bihar, Patna.
3. The District Magistrate Patna.
4. The Additional District Collector The District Establishment Cell, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s : Mr. Sajid Salim Khan (SC 25)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 15-07-2019

Heard the learned counsel for the parties.

Though this petition has been filed challenging the
second show cause notice as being in derogation of *Bihar
Government Servants (Classification, Control & Appeal)
Rules, 2005* but after some arguments, Mr. Brisketu
Sharan Pandey, learned advocate for the petitioner seeks
permission to withdraw this petition but with a direction
that the reply to the second show cause notice given by
the petitioner be considered in proper perspective.



It may be noted that the petitioner was subjected to a departmental proceeding and the enquiry officer has found that the petitioner, in some ways, is responsible for the act complained and therefore be punished. In the same breath, he has also stated that since the matter concerns a grave charge of demanding and accepting bribe and the criminal case lodged against the petitioner is pending adjudication, it would be advisable to stay the final decision in the departmental proceeding during the pendency of the trial.

The law with respect to acceptance or rejection of opinion of the enquiry officer is too well settled for it to be recounted. The opinion of the enquiry officer can be accepted in totality or rejected. The only rider in case of rejection of such report by the disciplinary authority is that the petitioner/delinquent is required to be intimated about the reason for the disciplinary authority differing with the enquiry report.



The second show cause notice indicates that the petitioner has been asked to respond as to why he should not be punished.

There is no difference of opinion of the disciplinary authority on merits as it has been suggested by the enquiry officer that petitioner ought to be punished. The only reason why this petition has been filed is that the enquiry officer has suggested that it would be advisable not to proceed with the departmental proceeding and conclude the same till the criminal case is decided.

This suggestion may or may not be accepted by the disciplinary authority. However at this stage it would not be proper for this court to interfere with the second show cause notice on the ground of same not being in tune/consonance with the provisions contained in *Bihar Government Servants (Classification, Control & Appeal) Rules, 2005*.

The petitioner has already replied to the aforesaid show cause notice.



This Court can only direct that the reply to the second show cause notice furnished by the petitioner be considered in its correct perspective.

The writ petition stands disposed of as withdrawn with the aforesaid observation.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
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