

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1334 of 2019

Prabhat Kumar Sinha, Son of Late Madan Mohan Prasad Sinha, Resident of the House of Sri Kupeshwr Prasad, Ward No. 06, Block Colony, P.O. and P.S. Aurangabad, District-Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar Patna.
3. The Principal Secretary, Department of Panchayat Raj, Government of Bihar Patna.
4. The Commissioner, Magadh Range, Gaya Bihar.
5. The Collector Cum District Magistrate, Aurangabad.
6. The In-Charge District Provident Officer, Aurangabad and Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner : Mr. R. K. Rajan, Advocate.
For the Respondents : Mr. Ajay (GA 5).

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 25-01-2019

Heard learned counsel for the petitioner and the State.

2. The petitioner who was posted at the relevant time as Block Panchayat Raj Officer, Kutumba, Aurangabad has challenged the order dated 04.07.2018 passed by the Principal Secretary, Department of Panchayat Raj, Government of Bihar whereby he has been saddled with a punishment of censure and no pay for the period that he had not worked.

3. The order impugned clearly indicates and establishes that the charges were framed against the petitioner after a preliminary enquiry about the petitioner disregarding his work, showing indiscipline and not



remaining present at his place of work. The aforesaid preliminary enquiry report was transmitted to the District Magistrate which was again sent to the Principal Secretary. The explanation offered by the petitioner was rejected but in terms of the provisions contained in Bihar Government (Classification, Control and Appeal) Rules, 2005, a departmental proceeding was initiated against him. The Additional Collector, Aurangabad was deputed as conducting officer whereas the Block Development Officer, Kutumba was made the presenting officer. An amendment also was made in the office order in view of there being no posting of Additional Collector at Kutumba. The petitioner appears to have been made available the documents on which charges against him was found to be proved. The petitioner is though said to have responded to the second show cause notice but he did not raise any plea in favour/support of his innocence. The Principal Secretary thereafter imposed a punishment of censure and declared that he shall not be paid for the period that he did not work.

4. Learned counsel for the petitioner has submitted that in fact the charges ought not to have been framed by an officer below the rank of District Magistrate as the rules in that regard clearly prescribe that the appointing authority or the Government can only initiate proceedings



against an employee. The other ground of challenge is that at no point of time, the petitioner was given an opportunity of defending his case. Lastly it has been submitted that the respondent no. 2 ought not to have directed that the petitioner shall not be paid for the period that he has not worked because that punishment is not described/listed in Rule 14 of the Bihar Government (Classification, Control and Appeal) Rules, 2005.

5. All the aforesaid grounds are not available to the petitioner for the simple reason that after preliminary enquiry, the District Magistrate referred to the Principal Secretary the charges on which the petitioner was to be subjected to departmental proceeding. His explanation was found to be unworthy of reliance/acceptance and hence a departmental proceeding was initiated. All the requirements of conducting a domestic enquiry was fulfilled by the respondents and only thereafter the aforesaid punishment has been imposed.

6. Censure is a minor punishment and this Court would not like to substitute its opinion for the proportionality of the sentence with respect to the charges levelled against him. So far as the declaration that the petitioner shall not be paid for the period that he has not worked, it may not be taken as punishment in terms of Rule 14 of Bihar Government (Classification, Control and



Appeal) Rules, 2005 but is only in the nature of declaration that no person ought to be paid for the period that he has not worked.

7. It is difficult for this Court to accept the submissions urged on behalf of the petitioner.

8. No interference is required with the order impugned.

9. The petition lacks merit and is therefore dismissed.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.01.2019
Transmission Date	

