

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18754 of 2011

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1. ANITA KUMARI AND ORS Widow Of Late Chandra Mohan Prasad R/O Mohalla- Madanpur, Near Gajror Talab, C/O Nitesh Kumar Sharma, P.S. Civil Lines, District And Town - Gaya
 2. Nikhil Kumar Minor S/O Late Chandra Mohan Prasad, Under The Guardianship Of Her Mother Namely Anita Kumari, Widow R/O Mohalla- Madanpur, Near Gajror Talab, C/O Nitesh Kumar Sharma, P.S. Civil Lines, District And Town - Gaya
 3. Archi Priya Minor D/O Late Chandra Mohan Prasad, Under The Guardianship Of Her Mother Namely, Anita Kumari, Wido R/O Mohalla- Madanpur, Near Gajror Talab, C/O Nitesh Kumar Sharma, P.S. Civil Lines, District And Town - Gaya

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Commissioner, Magadh Division, Gaya
3. The District Collector, Aurangabad
4. The District Land Acquisition Officer-Cum The Conducting Officer, Aurangabad
5. The Deputy Establishment Officer-Cum-The Circle Officer, Nabinagar, Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.S. Azimul Haque
For the Respondent/s : Ms.Archana Prasad AC to SC 19

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 27-02-2020 Heard learned counsel for the parties.

2. One Chandra Mohan Prasad, at the relevant point of time, was posted as Revenue Karmachari in Nabinagar Anchal of Aurangabad district, when a departmental proceeding initiated against him on the charge of dereliction of duties leading to loss of State revenue. The Disciplinary Authority, by



an order dated 22.08.2009, imposed upon him punishment of withholding of two increments without cumulative effect. He had preferred an appeal before the Divisional Commissioner, Magadh Division, Gaya, which has been dismissed by an order dated 21.04.2011. The orders passed by the disciplinary authority dated 22.08.2009 and the appellate authority dated 24.02.2011, have been put to challenge in the present writ application. During the pendency of this application, said Chandra Mohan Prasad died and has been substituted by his legal representatives to prove this case.

3. Learned counsel appearing on behalf of the petitioners, assailing the impugned orders, has submitted that the petitioners had a valuable right of appeal against the order of the disciplinary authority, which has been frustrated by passing of the impugned order dated 21.04.2011 by the Divisional Commissioner, which is cryptic and does not disclose any application of mind at all.

4. Learned counsel appearing on behalf of the respondent-State of Bihar, on the other hand, has submitted that a lenient view had been taken by the disciplinary authority by imposing punishment of withholding of merely two increments with non-cumulative effect and that the petitioners have not



been able to make out a case for interference in a proceeding under Article 226 of the Constitution of India. She has accordingly submitted that this application deserves to be dismissed.

5. I find force in the submission made on behalf of the petitioners that the order of the Divisional Commissioner, Gaya is non-speaking and does not disclose any application of mind. The order reads as under :-

“Heard the parties.
There is no need for interference
in the order of the DM,
Aurangabad. The appeal is
disallowed.”

6. There is no discussion at all in the order as to what points had been taken in the memo of appeal and why the grounds taken therein were not acceptable to the appellate authority.

7. The impugned order dated 21.04.2011, passed by the appellant authority being completely non-speaking, and the same is set aside.

8. This writ application is allowed.

9. The matter is remanded back to the Commissioner, Magadh Division, Gaya to pass an order afresh on the



petitioners' appeal, preferred against the order dated 22.08.2009.

It is directed that the final order by the appellate authority must be passed within two months from the date of receipt/production of a copy of this order which must be reasoned and speaking.

(Chakradhari Sharan Singh, J)

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