

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20953 of 2019

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Ramadhar Kanaujia Son of Late Bankey Lal Kanaujiya Resident of C/o Rajgiri Rai, House No. C- 137, Police Colony, P.S.- Gardanibagh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Joint Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Engineer-in-Chief (Middle), Water Resources Department, Government of Bihar, Patna.
5. The Officer on Special Duty, Water Resources Department, Government of Bihar, Patna.
6. The Chief Engineer, Water Resources Department, Valmikinagar, West Champaran.
7. The Executive Engineer, Main Western Canal Division, Valmikinagar, District- West Champaran.
8. The Secretary, Technical-cum-Chief Engineer, Water Resources Department, Muzaffarpur-cum-Chairman of Enquiry Committee.
9. The Executive Engineer, Canal and Design Pramandal No.1, Patna cum Member of Enquiry Committee.
10. The Executive Engineer, Flying Squad Division No.7, Patna-cum-Member of Enquiry Officer.
11. The Executive Engineer, Dam and Gate Design Pramandal-1, Patna-cum-Enquiry Officer.
12. The Assistant Engineer, Office of the Chief Engineer, Central Design and Quality Control, Water Resources Department, Patna-cum-Presenting Officer.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Indu Bhushan
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 13-07-2021 The short question of fact involved in the present writ application for adjudication of the case whether second



show cause notice served on the petitioner with intention to provide opportunity to the petitioner to submit his explanation or not?

The second show cause notice was issued on 2.1.2019 enclosing enquiry report dated 14.12.2013 on the address of the petitioner where the petitioner was not available because of his transfer. He was in fact served a copy of the second show cause on 15.4.2019 i.e. much after expiry of 15 days time prescribed under the show cause notice and thereafter, the respondents proceeded to punish the petitioner and he was inflicted punishment of dismissal. The respondents have noted in their order that the second show cause notice was served much after 15 days time prescribed under the show cause notice and thus in breach of Bihar Government Servants CCA Rules, 2005, principles of natural justice and fair play, the petitioner has been dismissed from service vide impugned order contained in Annexure-10 and appeal of the petitioner was also dismissed without appreciating the aforesaid fact that second show cause notice was not served on the petitioner within time to enable the petitioner to file his effective reply to the second show cause notice which was ultimately served much after 15 days which has rendered the petitioner helpless in the matter of reply to the



second show cause notice.

In view of the law laid down by the constitution bench of the Apex Court reported in **1993(4) SCC 727**, the Court is constrained to quash the Annexure-10. The matter is remitted back to the respondents to take fresh decision from the stage of issuance of second show cause notice. They are obliged to serve copy of second show cause notice with enquiry report to the petitioner within 15 days from the date of receipt/production of a copy of this order and grant 15 days clear notice to the petitioner from the date of fresh service of 2nd show cause notice and thereafter, consider the second show cause reply furnished by the petitioner and shall pass appropriate order in accordance with law.

The period of 15 days shall be reckoned from the date of actual service of second show cause notice with enquiry report.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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