

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16040 of 2018

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Hari Kishore Ram, Son of Late Genda Ram, Village+P.O.+P.S.- Goriya Kothi,
Siwan, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Disciplinary Authority-cum-the Principal Secretary, Panchayat Raj Department, Bihar, Patna.
3. The Enquiry-cum-Presenting Officer-cum-District Panchayati Raj Officer, Gaya.
4. The Principal Secretary, Revenue and land reforms Department, Government of Bihar, Patna.
5. The Superintendent of Police, Vigilance Investigation Bureau, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Saroj Kumar Upadhyay, Advocate
For the Respondent/s : Mr.Anwar Karim, AC to GP10

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 16-11-2022 The writ petition has been filed supported with an affidavit sworn by son of the petitioner. It is stated in the affidavit that the petitioner is suffering from Brain Stroke, hence his son was authorized to sign the affidavit.

2. The petitioner was posted as a Block Development Officer (B.D.O.), Barachhati, at the relevant time. He has sought quashing of the order dated 09.04.2014, passed by the Principal Secretary, Panchyati Raj Department, Government of Bihar, terminating the petitioner from service.

3. The brief factual background is that an F.I.R.



was lodged against the petitioner upon his arrest, being caught red handed accepting a bribe of Rs.10,000/- from the informant. The said incident led to lodging of Vigilance P.S. Case No. 63 of 2010 for the offences under Section 7/13 (2) read with Section 13 (1)(D) of the Prevention of Corruption Act, 1988. The same incident led to initiation of departmental proceedings against the petitioner, after his release from jail on bail vide memo no.1984 dated 09.04.2012. After conduct of proceedings, petitioner has been terminated from Government Service by the impugned order dated 09.04.2014.

4. Learned counsel for the petitioner submits that the entire proceedings against the petitioner stands vitiated for the fact that the proceedings were conducted without there being any Presenting Officer. The fact that the Enquiry Officer has assumed the role of the Presenting Officer strikes at the root of fairness in the proceedings conducted against the petitioner.

5. Learned counsel for the State on the other hand submits that this writ petition has been filed more than four years after the petitioner was terminated under the impugned order dated 09.04.2014. The belated writ petition is not supported by an affidavit by the petitioner himself. The averments made in the writ petition and submissions based there



upon, to the effect that there was no Presenting Officer, is palpably factually incorrect. From bare perusal of the enquiry report (Annexure-05), it is obvious that Presenting Officer was appointed and was in fact presenting the case on behalf of the Department in the enquiry dated 06.09.2012. The Enquiry Officer has clearly recorded that on 06.09.2012 the Presenting Officer had produced Mr. Nandji Singh and Mr. Premnath Mishr in the proceedings. The submission, therefore, that there was no Presenting Officer is factually unsustainable. The said submission is also belied by Annexure-04 to the writ petition, which is a protest letter written by the petitioner before the Respondent No.3, Enquiry Officer. In the said letter the petitioner has himself referred to the Presenting Officer. From the said letter written by the petitioner it is obvious that the petitioner was also objecting to the way in which Presenting Officer was conducting the proceedings. That being so, stand taken by the petitioner in these proceedings that there was no Presenting Officer is apparently factually incorrect.

6. On going through Annexure-04 of the writ petition and the enquiry report, this Court finds the submission of learned counsel for the State, noted above, to be correct. The existence of Presenting Officer in the proceedings is



acknowledged by the petitioner himself in his protest letter (Annexure-04). This fact is also apparent from the enquiry report. The submission of learned counsel for the petitioner, therefore, that the proceedings stand vitiated on account of there being no Presenting Officer is unsustainable.

7. The other aspect of the matter is that the writ petition has been filed for assailing termination order after more than four years. There is not a whisper in the writ petition as to why the writ petition has been filed after such a delay. This Court would also find that the petitioner has not availed the remedy of review by way of memorial against the order of termination for such a long time.

8. The learned counsel for the petitioner has submitted that since the petitioner is paralysed the delay has occurred.

9. This plea appears to be a desperate attempt by learned counsel for the petitioner, as there is no plea to this effect in the writ petition that after the order of termination, for the last more than 4 years, the petitioner was paralysed and incapacitated from filing the writ petition. In the affidavit the son has only stated that his father (petitioner) is paralysed. The said pleading is not with reference to any date, so as to enable



this Court to consider whether the paralysis can be relied upon by the petitioner for not availing his remedy for more than four years.

10. Another aspect of the matter is that if the writ petition was to be filed through the son, then the same could have been done earlier. The submission of learned counsel for the petitioner is not founded on any pleadings in the writ petition. This Court, therefore, is also of the opinion that the writ petition is barred by delay and laches.

11. For the reasons noted above, the writ petition is dismissed.

(Madhuresh Prasad, J)

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