

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12008 of 2011

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Animesh Kumar S/O Late Brij Ballabh Kumar R/O New Visnu Vihar, Near
J.J. College, P.O. Buniyad Gunj, P.S. - Muffasil, District – Gaya, Bihar

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principle Secretary, Department Of Revenue Of Land Reforms,
Government Of Bihar, Patna Bihar
3. The Commissioner, Magadh Division, Gaya District- Gaya Bihar
4. The District Magistrate Gaya District- Gaya Bihar
5. The Land Acquisition Officer-Cum- Conducting Officer, Gaya District-
Gaya Bihar
6. The Circle Officer, Tankuppa, Gaya District- Gaya Bihar
7. The District Land Acquisition Officer, Gaya District- Gaya Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Niranjana Kumar, Advocate Mr. Jitendra Prasad Singh, Advocate Mr. Kumar Kishan, Advocate Mr. Avinash Kumar, Advocate
For the Respondent/s	:	Mr. Birju Prasad, GP-13 Mr. Ajit Anand, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 20-09-2022

Re:- I.A. No. 02 of 2022

Heard Interlocutory Application for recalling the
order dated 04.08.2022 to the extent of imposition of cost of Rs.
500/- on the State counsel Mr. Birju Prasad.

When Mr. Birju Prasad, learned counsel for the
State was given ample opportunity to apprise this court whether
presenting officer was appointed or not, he was unable to assist
this court with reference to the instruction from the disciplinary



authority. Therefore, there is no infirmity in the order dated 04.08.2022.

Accordingly, I.A No. 02 of 2022 stands rejected.

Pursuant to the previous order dated 30.08.2022 Mr. Thiagarajan S.M., District Magistrate, Gaya is present in the court.

In the instant petition, petitioner has prayed for the following relief(s):-

“1. That this is an application for issuance of a writ in the nature of Certiorari or any other appropriate writ or writs quashing the Order dated 19.05.2011 passed by the learned Commissioner, Magadh Division, Gaya in Appeal No. 69 of 2010 by which he has dismissed Appeal filed by the Petitioner against the Order of dismissal from service and refusing to consider the case of the petitioner on the quantum of punishment”.

One of the contention raised by the petitioner is that no presenting officer was appointed and it is in violation of Sub-rule 5 of Rule 17 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (For short “CCA Rules, 2005). On the other hand, District Magistrate, Gaya was asked to peruse the inquiring officer’s records so as to examine whether presenting officer was appointed or not, for which he has



pointed out communication dated 13.08.2005. No doubt happily not worded that presenting officer would present the departmental case before the inquiring authority. However, Circle Officer was appointed to present the case. The District Magistrate is asked to peruse the day to day order sheet as to whether Circle Officer has presented the departmental case and adduced evidence through the relevant witnesses. It is fairly submitted by the District Magistrate that the inquiring officer has not maintained the day to day order sheet. It is also stated that no deposition has been made by the witnesses pursuant to the alleged allegation in order to corroborate alleged charges.

In the light of these facts and circumstances, *prima facie*, there are lacunas in appointing presenting officer and adducing evidence through the relevant witnesses. In other words, there is non-compliance to Rule 17 of CCA rules, 2005. Accordingly, the impugned order dated 19.05.2011 stands set aside. Matter is remanded to the disciplinary authority to complete the inquiry proceedings from the date of framing charges. He is hereby directed to examine relevant provisions of CCA Rules, 2005 and proceed further. He is also hereby directed to inform the inquiring officer to be appointed and presenting officer to follow Rule 17 and any other provision of



law which is required to be followed by the inquiring officer and presenting officer and complete the proceedings within a period of six months from the date of receipt of this order, in the light of the fact that petitioner has attained the age of superannuation and retired from service on 09.10.2017.

The intervening period from the date of dismissal till passing of afresh order in disciplinary proceedings is required to be regulated in accordance with law. Such order shall be passed within two months from the date of passing final order in a departmental inquiry. Accordingly, the present writ petition is allowed in part.

Petitioner shall cooperate in inquiry matter failing which disciplinary authority is empowered to proceed *ex-parte*.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	26.09.2022
Transmission Date	

