

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13511 of 2021

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Ramashankar Pandey Son of Shatrudhan Pandey Resident of Ward No. 3,
Bhabua, P.S.- Bhabua, District- Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue Department,
Government of Bihar, Patna.
2. The Principal Secretary Revenue Department, Government of Bihar, Patna.
3. The Collector Kaimur at Bhabua.
4. The Additional Collector, I/C Departmental Proceeding Kaimur at Bhabua.
5. The Sub-Divisional Officer Bhabua.
6. The Circle Officer Kudra, District- Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushil Kumar Jha, Advocate
For the Respondent/s : Mr. Sajid Salim Khan (SC 25)

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

Date : 17-02-2022

This matter is heard *via* video conferencing due to cir-
cumstances prevailing on account of the COVID-19 Pandemic.

Learned State counsel accepts notice for respondents.

Learned counsel for the petitioner is hereby directed to
furnish a copy of the petition to learned counsel for the State if it
has not already furnished.

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

*“For direction against
the report submitted by the re-*



spondent Conducting Officer(Respondent no.4) whereby and where under the respondent Conducting Officer has found that the charges against the petitioner stand proved on report and the opinion of the presenting officer, in utter violation of the provisions of the Bihar Government Servants (Classification, Control & Appeals) Rules, 2005 (herein after referred to as the Rules, 2005) including the provision of Rule-17 where in procedure for conducting the enquiry is mentioned. The report is violative of the provisions of natural Justice and fair play in action. This writ application is also being filed is against the initiation of the departmental proceeding against the petitioner whereby the charges have been framed without any preliminary enquiries, on the basis of report dt.22.09.2017 issued under signature the Sub-Divisional Officer wherein it was found that there has been irregularities in settlement of the land (settlement case no. 1/2017-18) under the garb of rehabilitation of encroachers who were affected by the removal of the encroachment. This writ application is also being filed for other reliefs as well The petitioner was Halka Karamchari-cum-Circle Inspector posted at Kudra during the period 2017-18. On the basis of the order passed by this Hon'ble Court, the proceeding for removal of encroachment was initiated for removal of those encroachers being encroachment case being Case No.2



() of 17-18. After the removal of the encroachment, proposal was made for the rehabilitation, of the displaced persons. Altogether proposal for settlement 40 persons was accepted for rehabilitation, accordingly they have been rehabilitated. Tent etc. were also made available under the order of the District Magistrate. Later on, the S.D.O. during course of an enquiry found that there has been an irregularity in the settlement process. Accordingly a report was submitted on 22.09.2017 founding irregularities in settlement of 27 persons out 40 persons, at the instance of the petitioner. Without calling for any explanation from the petitioner, a proceeding was initiated against the petitioner only and charge was accordingly framed on 22.11.2018. On the report of the Sub Divisional Officer dated 22.09.2017, a departmental proceeding was initiated against the petitioner vide order no 147/2018-19 consisting of the memo of charges, under the order of the Collector, the respondent Additional Collector, departmental proceeding was appointed as conducting officer and respondent circle officer, Kudra was appointed as presenting officer. Summarily charge is the report of the conducting officer dated 22.09.2017. The conducting officer started departmental proceeding being departmental proceeding no. 1/2018-19 and accordingly called the petitioner to appear and file reply to the charges. The said letter was followed by



letter dated 29.12.2018 where upon the petitioner submitted is detailed reply enumerating the fact and circumstances and also explained that the settlement process was confirmed by the competent authority. In such circumstances, the petitioner cannot held guilty. This apart, a proceeding was initiated without any explanation sought on report of the Sub Divisional Officer. The proceeding was adjourned on various dates and ultimately report was submitted by the conducting officer after considerable delay, presumably, due to Covid-19 the report was placed on record on 08.01.2021. There after order in the proceeding was reserved vide order dated 28.1.2021. The conducting officer after receiving the report and opinion of the conducting officer concluded the proceeding and held that as per the opinion and report of the presenting officer, charge stand proved, vide report dated 07.04.2021 (Annexure- 6) which is not sustainable in the eye of law. The petitioner has reason to believe that on the basis of alleged erroneous report, the petitioner may be subjected to victimization. It is relevant to state here that even though the Sub-divisional officer opined that 27 person illegally obtained settlement, same person have been rehabilitated which tends to show that the report is tinted.”



In support of the aforesaid relief petitioner submitted his reply dated 22.01.2019 (Annexure-5).

The petitioner is hereby directed to approach disciplinary authority in submitting a detailed representation or reply to second show cause notice to be issued or issued. If such representation/explanation is submitted by the petitioner, the disciplinary authority is hereby directed to examine each of the contention to be raised by the petitioner before passing final order.

With the aforesaid observations, the present writ petition stands disposed off.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

