

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10508 of 2020

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Krishna Kant Prasad Singh, Son of Late Janardan Prasad Singh, Resident of Village/Mohalla Khajpura, P.S. Rajeev Nagar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Department of Finance, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Arts, Culture and Youth, Bihar, Patna.
5. The Joint Secretary, Department of Arts, Culture and Youth, Bihar, Patna.
6. The Deputy Secretary, Department of Arts, Culture and Youth, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sarbottam Kumar Sarkar
For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG-13

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

Date : 31-03-2022

Pursuant to the order dated 29.03.2022, Joint Secretary, Mr. Tariq Iqbal, who is Incharge of Deputy Secretary is present in Court.

It is submitted that author of Annexure-4 (impugned order) has been shifted to Sitamarhi as Settlement Officer. It is to be noted that author of the document is State Administrative Service officer. He has rendered number of years of service in various capacity. He does not know basic issue whether to issue notice to such person whose right is likely to be affected, if he passes any order against any person. In other words, basic principles are not learnt by the State



Administrative Officers, like the then Deputy Secretary-6th Respondent.

On 29.03.2022, following order was passed:-

“6th Respondent- Deputy Secretary, Department of Arts, Culture and Youth, Bihar, Patna is hereby directed to appear in person for the reasons that before impugned action petitioner has not been notified. In other words, notice has not been issued before altering his monetary benefits arising out of fixation of pension. Constitution of India was came into existence in the year 1950 and we are in the year 2022. Courts have time and again held that if any person's right is affected, it has civil consequences. In such circumstances, notice is warranted. In other words, principle of natural justice is required to be complied. If the Deputy Secretary has failed to comply the aforesaid issue and keep on passing various orders in this fashion would result in financial loss to the State Exchequer. The financial loss is required to be adjusted through tax payer's money. Therefore, he shall be present in Court on the next date of hearing with all records.

Re-list this matter on 31.03.2022.

Copy of this order shall be given to the State counsel.”

Today Joint Secretary, Incharge Deputy Secretary on instruction submitted that there is non compliance of principle of natural justice before passing impugned order dated 30.06.2020 (as contained in Annexure-4).

In the light of aforesaid submission, Annexure-4 dated 30.06.2020 stands set aside. If any recovery is effected



from the petitioner, the same shall be refunded to the petitioner forthwith. Thereafter, if the State department still feels that certain action is warranted against the petitioner in so far as extending monetary benefits in that event a detailed notice shall be issued to the petitioner asking his explanation. On receipt of petitioner's explanation, proceed to pass speaking order after due consideration of each of the contention to be raised by the petitioner in his explanation. Above exercise shall be completed within a period of four months from the date of receipt of this order. Competent authority may take note of Apex Court's decision viz., *Vipulbhai Mansingbhai Chaudhary Vs. State of Gujarat* reported in (2017) 13 SCC 51.

Respondent-department is liable to pay litigation cost and it is quantified @ Rs. 10,000/-. The cost shall be remitted in the Patna High Court Legal Services Committee within a period of four weeks.

Accordingly, the present petition stands allowed.

(P. B. Bajanthri, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	05.04.2022
Transmission Date	

