

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1516 of 2023

Prakash Chandra Mishra, Son of Late Jharkhandi Mishra, Resident of Harmu Housing Colony, Argora, Police Station and District- Doranda, Ranchi, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Agriculture Department, Bihar, Patna.
2. The Special Secretary, Agriculture Department, Bihar, Patna.
3. The Joint Secretary, Agriculture Department, Bihar, Patna.
4. The Accountant General, Bihar, Patna.
5. The Officer On Special Duty, Agriculture Department, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr.Sanjiv Kumar, Advocate
For the State	:	Mr.Raghwanand, GA-11
For Accountant General	:	Mr.Arun Kumar Arun, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 06-07-2023

1. Heard learned counsel for the petitioner and learned counsel for the State, as well as learned counsel for the Accountant General.

2. For allegations during the period the petitioner was posted as District Agriculture Officer, Gaya, he was proceeded against under a charge memo dated 09.07.2020. Substance of the charge was irregularity in grant of subsidy in the loan availed by certain loanees for purchase of combined harvester.

3. The enquiry was conducted on 3 dates whereafter, it is the petitioner's case that he was served with the impugned



order dated 12.10.2022, whereby he has been awarded the punishment of censure and a direction has been issued to recover an amount of Rs.4,01,419/- (Four lakhs one thousand four hundred and nineteen rupees), being the amount of loss occasioned to the State Exchequer on account of his alleged illegality committed in grant of subsidy.

4. The petitioner has made a specific assertion in the writ petition that the Enquiry Officer had found the charges to be not proved. In fact, he had recorded a finding that the grant of subsidy was in accordance with the rules. Without serving a copy of the enquiry report on the petitioner or affording any opportunity, the Disciplinary Authority has passed the order of punishment, at variance with the findings of the Enquiry Officer.

5. It is submitted by learned counsel for the petitioner that the Authority was obliged to follow the procedure specified in Rule 18(2) of the Bihar Government Servants (Classification, Contral & Appeal) Rules, 2005 (hereinafter referred as “CCA Rules”), once the findings favourable to the petitioner, were intended to be differed with by the Disciplinary Authority. That having not been done, the resultant order of punishment dated 12.10.2022 is contrary to the CCA Rules and the requirement of natural justice inherent in the procedure prescribed under the



said Rules.

6. The petitioner has also assailed the order of the Disciplinary Authority by way of memorial before the Reviewing Authority under Rule 24(2) of the CCA Rules. Rejection of the same has been communicated to the petitioner under order dated 24.01.2023, which he has assailed by way of interlocutory application. The submission is that the communication of the order of the Reviewing Authority does not contain any reasons for the dismissal of the petitioner's review and is unsustainable, because it shows total lack of consideration of the petitioner's review.

7. Learned counsel for the State has filed counter-affidavit. The fact that copy of the enquiry report was not served on the petitioner before the Disciplinary Authority differed with the findings favorable to the petitioner is not denied or disputed. In fact, in response to such assertion, the counter-affidavit specifically states that the same is a matter of record.

8. The fatal procedural lapse being admitted, this Court would have no option than to quash the order of punishment (Annexure-1) dated 12.10.2022.

9. The order of the Reviewing Authority is also without assigning any reasons and is the affirmation of the order



passed by the Disciplinary Authority dated 12.10.2022, which this Court has found to be illegal. The order of the Reviewing Authority dated 24.01.2023 also is quashed.

10. The Disciplinary Authority would be at liberty to proceed against the petitioner after communicating the enquiry report alongwith his reasons for disagreement and findings as contemplated under Rule 18(2) and (3) of the Rules, in accordance with law, giving due opportunity to the petitioner.

11. Writ application stands allowed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2023
Transmission Date	NA

