

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10413 of 2016

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Sri Kant Singh son of Sri Chandeshwar Prasad Singh resident of Village -
Tira, P.O. - Chero, P.S. - Harnout, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Mines and Geology, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Department of Mines and Geology, Government of Bihar, New Secretariat, Patna.
3. The Under Secretary, Department of Mines and Geology, Government of Bihar, New Secretariat, Patna.
4. The Director, Mines and Geology, Department of Mines and Geology, New Secretariat, Patna.
5. The Assistant Director of Mines, Department of Mines and Geology, District Mining Office, Rohtas (Sasaram).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Akashdeep, Advocate
For the State	:	Mr. Sarvesh Kumar, AAG-13
		Mr. Tej Pratap Singh, AC to AAG-13
For Mines Dept.	:	Mr. Naresh Dixit, Advocate

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

Date : 17-07-2023

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

“1. That this is an application praying for issuance of a writ/order or direction, in the nature of a writ of Certiorari or any other writ/ order or direction for quashing the order of as contained in Memo No.2217 dated 29.5.2014 (Annexure 8) as well as the Order as communicated vide Memo No.886 dated 16.3.2016 (Annexure 11), rejecting the statutory appeal of Petitioner; The Petitioner further prays for a consequential writ/ order or direction, in the nature of a writ of mandamus or any other appropriate writ/ order or direction, commanding the Respondents to grant and pay



the consequential benefits such as continuity, salary, increments, allowances etc, in accordance with Law.”

2. On 19.12.2017, the following order was passed:-

“File of the disciplinary proceeding has been produced by Mr. Naresh Dixit to inform in reference to Page-28 of the note sheet that it takes note of issuance of the second show cause to the petitioner bearing Memo No. 1464 dated 2.4.2014.

Per contra, it is argued by Mr. Akashdeep, learned counsel for the petitioner, that even though an approval has been given for issuance of second show cause notice and even if a memo was prepared in this regard but the file noting at Page-28 nowhere shows whether it was issued. He next refers to the noting at Page-24 and 25 in support of his submission that every decision of issuance of an order is followed by a specific mention of number and date of the order through which it was issued but in so far as the present case is concerned, although a decision was taken to issue a second show cause notice on 31.3.2014 and a memo is present at Page-80 of the file but the file nowhere contains any noting whether in fact it was issued.

Mr. Naresh Dixit again prays for a short accommodation to verify the position.

Put up this matter on 9th January, 2018 under the same heading.

Let file of the disciplinary proceeding be retained by Mr. Naresh Dixit until disposal.”

3. The respondents could not apprise this Court that they have served second Show Cause Notice dated 02.04.2014 along with the Inquiry Officer’s report. Second Show Cause Notice and Inquiry Officer’s report was stated to be served through registered post, no authenticated document is made available by the respondents to the effect that they were in



receipt of postal acknowledgment to the extent that it has been served on the petitioner.

4. Therefore, the petitioner has made out a case so as to interfere with the impugned order dated 29.05.2014 (Annexure-8) is set aside and the matter is remanded to the Disciplinary Authority to provide second Show Cause Notice dated 02.04.2014 along with the Inquiry Officer's report to the petitioner. The petitioner is hereby directed to furnish his explanation on the Inquiry Officer's report. Thereafter, the Disciplinary Authority is hereby directed to pass a detailed speaking order after due consideration of each of the contention to be raised by the petitioner in his explanation on the Inquiry Officer's report read with second Show Cause Notice.

5. The above exercise shall be completed within a period of four (4) months from the date of receipt of this order.

6. Accordingly, present writ petition stands allowed in part.

(P. B. Bajanthri, J)

Shoaib/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.07.2023.
Transmission Date	NA

