

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1653 of 2016

In
Civil Writ Jurisdiction Case No.723 of 2013

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1. The State of Bihar represented through the Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
 3. The Joint Secretary, Rural Development Department, Government of Bihar, Patna.
 4. The Deputy Secretary, Rural Development Department, Government of Bihar, Patna.
 5. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
 6. The Commissioner, Purnea Division, Purnea, District- Purnea.
 7. The Deputy Collector, Land Reforms cum Director of District Rural Development Authority, Araria, District-Araria.
 8. The District Magistrate, Araria.
 9. The Deputy Development Commissioner, Araria.
 10. The Block Development Officer, Palasi Block, Araria.
 11. The Director, District Rural Development Authority, Araria.

... .. Appellant/s

Versus

1. Md. Shamim Akhtar, Son of Late Md. Moizuddin resident of Village P.O.- Belagachhi, P.S.- Dagarwa, District- Purnea.
2. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Prabhat Kumar, AC to GA 11
For the Respondent/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Prince Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 19-01-2023

The present Letters Patent Appeal is filed by the State
against the order of the learned Single Judge dated 15.03.2016



passed in CWJC No. 723 of 2013. Respondent was subjected to disciplinary proceedings on 11.02.2009. Inquiring Officer submitted his report to the disciplinary authority. Disciplinary authority instead of accepting or rejecting the finding of the Inquiring Officer proceeded to initiate fresh inquiry or issuance of notice for amending charge.

02. Perusal of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005, it is evident that disciplinary authority has no power to amend the charge at the stage of consideration of inquiring officer's report/finding. The disciplinary authority had option of either accepting or rejecting the finding of the Inquiring Officer's report or in the event of disagreeing with the inquiring officer report or finding. In that event disciplinary authority has option of issuing of show cause notice to the concerned person to the extent of disagreeing with the inquiring officer's report or finding and he had option of remanding the matter to the inquiring authority to commence the inquiry from the defective stage and complete the process of inquiry or he/she can complete the inquiry. On the other hand, in the present case disciplinary authority proceeded to amend the charge and ordering fresh inquiry. Such procedure is not in consonance to the law for the reason that Bihar Government



Servant (Classification, Control and Appeal) Rules, 2005 do not provide for such procedure. In fact, the petitioner in para 25 and 56 of the writ petition has specifically contended that ordering fresh inquiry is bad in law.

03. In the light of these legal issues, the appellants-State have not made out a case so as to interfere with the order of learned Single Judge dated 15.03.2016 passed in CWJC No. 7623 of 2013. Accordingly, the present Letters Patent Appeal stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Vikash/-

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

