

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.918 of 2024

Md Arzoo Choudhary Son of Md Showkat Choudahry resident of Village-
Pramnik Tola P. O. and P.S. Abadpur District Katihar, Bihar.

... .. Petitioner/s

Versus

1. The Bihar State Educational Infrastructure Development Corporation Limited (A Government of India Undertaking) Siksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna through its Managing Director.
2. The Managing Director, Bihar State Education Infrastructure Development Corporation Limited (A Government of India Undertaking) Siksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna.
3. The Chief Engineer, Bihar State Education Infrastructure Development Corporation Limited (A Government of India Undertaking) Siksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Girijish Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 09-05-2024 By order dated 24.01.2024, we had directed the respondents to produce evidence regarding the service of notice. The order was issued only noticing the contention of the petitioner that he had not been served the show-cause notice.

2. Learned Counsel for the respondents has filed counter affidavit wherein Annexure R3/D indicates a communication having been sent by registered post. Learned



Counsel relies on *Union of India v. Dinanath Shantaram Karekar [(1998) 7 SCC 569]*. That was a case in which the charge sheet with respect to a departmental enquiry was sent by registered post which was received back undelivered with postal endorsement “not found”. It was in that circumstances that it was held that a single attempt of service of notice is not sufficient and further efforts should have been made. We do not think that the dictum in the said judgment applies across the board to all situations.

3. In the present case, there is no effort made by the petitioner to bring on record some material to show that the registered article was not served on him which, as of now, is possible by tracing it. Learned Counsel for the petitioner submits that beyond 90 days the postal article cannot be traced.

4. Learned Government Advocate points out that the petitioner has approached this Court after more than a year.

5. The defalcation alleged is of a genuine certificate not having been furnished. The petitioner also does not have a case that it was genuine, hence, the defalcation has to be accepted as proved.

6. Though there is an appeal provided, it is to the Managing Director, at whose instance the order has been passed.



In such circumstances, considering the fact that black-listing was done for 10 years, we give liberty to the petitioner to approach the Managing Director to consider reduction of the term with proper material furnished for mitigation of such offence. If such an application is filed, the issue shall be considered but, it is left to the discretion of the Managing Director.

7. The writ petition stands closed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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