

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4039 of 2020

Sushil Kumar Sinha, S/o Sidheshwar Nath sahay, resident of 107, Kashyap Kishori Apartment, Jhun-Jhun Mahal Road, new Yarpur, Gardanibagh, P.s.- Gardanibagh, District- Patna, at present posted as Co-operative Extension Officer, Danapur Circle, Danapur, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co-operative Department, Govt. of Bihar, Patna
2. The Additional Chief Secretary, Co-operative Department, Govt. of Bihar, Patna
3. The Registrar, Co-operative Societies, Bihar, Patna
4. The District Magistrate, Patna
5. The District Co-operative Officer, Bhojpur, Arah
6. The Block Development Officer, Ghoswari Block, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raj Shekhar, Adv. Mr. Sanjay Kumar, Adv. Mr. Hitesh Suman, Adv.
For the State	:	Mr. Subodh Kumar (AC to SC-26)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 01-03-2024 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for quashing the Memo No.2850 dated 26.03.2019 (annexed as Annexure-6) passed by the Registrar, Co-operative Societies, Bihar, Patna and Memo No. 3133 dated 29.08.2019 (annexed as Annexure-7) passed by the Additional Chief Secretary, Co-operative Department, Bihar, Patna.

3. Learned counsel for the petitioner submits that from the order passed by the Disciplinary Authority, it becomes



crystal clear that the said order has been passed without providing a copy of the enquiry report and second show cause as well as in absence of Conducting Officer. The petitioner has pleaded the said pleading specifically in paragraph no.18 of his writ petition also. Counsel also submits that there is a gross violation of Rule 18 according to which neither disagreement memo nor second show cause has been served upon him.

4. Learned counsel for the State on the other hand submits that the punishment order is basically minor in nature and according to Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as “CCA Rules, 2005”), minor punishment may be passed even without enquiry and it is the discretion of the Disciplinary Authority and therefore, writ petition is fit to be dismissed.

5. Upon hearing the parties and perusal of the record, there is subsistence in the arguments of State that minor punishment may be imposed even without holding the enquiry, but the law is very clear that once the Disciplinary Authority decided to hold the enquiry, then in that case, he is bound to follow the rule. Here, in the present case, though minor punishment has been passed, but it was decided by the Disciplinary Authority to hold the enquiry and the Disciplinary



Authority disagree from the enquiry report as mentioned in the final order dated 26.03.2019. Therefore, under Rule 18, it is necessary for the Disciplinary Authority to issue disagreement memo and second show cause in addition to the copy of the enquiry report which are lacking in the present case.

6. As such, this Court is of the firm view that order contained in Memo No.2850 dated 26.03.2019 (annexed as Annexure-6) passed by the Registrar, Co-operative Societies, Bihar, Patna and Memo No. 3133 dated 29.08.2019 (annexed as Annexure-7) passed by the Additional Chief Secretary, Co-operative Department, Bihar, Patna are not sustainable and hereby quashed.

7. Authorities are free to take decision further on the petitioner in accordance with law to continue the fresh proceeding. But, upon decision to initiate the fresh proceeding, it shall be concluded within three months from the date of appearance of the petitioner.

8. With the aforesaid observations, this writ petition is hereby allowed.

(Dr. Anshuman, J.)

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