

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8674 of 2018

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Raman Roy Son of Late Govind Roy, Resident of Village-Mahisari, P.S.-
Bhavanipur, P.S.-Singhara, District-Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Special Secretary, Department of Revenue and Land Reform Department,
Government of Bihar, Old Secretariate.
3. District Magistrate, est Champaran, Bettiah.
4. Additional Collector Cum Conducting Officer, West Champaran, Bettiah
5. Circle Officer, Sikta, West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhirendra Narain Mallik, Adv.
For the Respondent/s : Mr.Md. Khurshid Alam- Aag12

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 24-09-2024 Heard Learned Counsel for the petitioner and

Learned Counsel for the State.

2. Learned Counsel for the petitioner submits that the present writ petition has been filed for directing the respondent to declare the entire departmental proceeding as illegal and to stay the enquiry report, as it is in violation of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and further to direct for not taking any decision in departmental proceeding till the completion of criminal trial pending against the petitioner.

3. From the reliefs, it transpires to this Hon'ble Court that primarily, the petitioner has filed this writ petition directing the respondents, for not taking decision in the departmental proceeding, till the completion of criminal case pending against



him. Learned Counsel has also taken the point that Enquiry Report dated 09.12.2017 submitted by Conducting Officer, has also been made without considering the procedure adopted by provisions mentioned in the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005.

4. Learned Counsel for the State submits that the criminal case is pending against the petitioner, as it has been mentioned in the prayer portion itself. He further submits that the petitioner has not disclosed before this Hon'ble Court about the stage of the criminal case, but on the other hand, on the ground of pendency of criminal case against him, seeking relief to stop the proceeding, which is not permissible under law.

5. Learned Counsel for the State further submits that from the Charge-memo, it transpires that the petitioner has been caught red handed taking bribe of Rs.20,000/- with this allegation, the departmental proceeding has initiated as well as vigilance case has been filed.

6. Learned Counsel further submits that as per information available to him through the Officials that 2nd show-cause notice has already been issued in the departmental proceeding pending against him, but final order could not be passed, only due to the reason that vide order dated 11.05.2018



passed in the present writ petition, this Hon'ble Court has pleased to direct the respondent that the final order in the on-going departmental proceeding shall not be passed.

7. After hearing the parties, a moot question has involved in the present case that whether the Disciplinary and Criminal proceeding can run together? or whether the Disciplinary proceeding should stop till disposal of criminal case? In this regard, it is well known that that the purpose of departmental enquiry and criminal prosecution are two different and distinct aspect of the matter. The Departmental enquiry is to maintain discipline in the service and efficiency of public service. Whereas, crime is an act of commission of violation of law or of omission of public duty. The enquiry in a departmental proceeding relates to conduct or breach of duty by the delinquent officers to punish him for his misconduct defined under the relevant statutory rule. The settled legal position in the departmental proceeding that the standard of proof is by approaching the preponderance of probability, whereas in the criminal proceeding, the mode of proof is beyond all reasonable doubt.

8. In this regard, this Hon'ble Supreme Court of India has decided in **T.N.C.S. Corporation Ltd. Vs. K. Meerabai**



reported in **(2006) 2 SCC 255** that the scope of Disciplinary and Criminal Proceedings are quite distinct, exclusive and independent of each other. The mode of standard of proof in two proceedings is also different. Therefore, this Court is of the firm view that keeping departmental proceeding awaiting the result of the criminal case, may not be accepted. The relevant paragraphs 32 and 35 of judgment are as follows:-

“32. The scope of disciplinary proceedings and the scope of criminal proceedings in a court of criminal law are quite distinct, exclusive and independent of each other. The prosecution proceedings launched against the respondent herein were in respect of offences punishable under Sections 409 and 477-A IPC, whereas the departmental proceedings as initiated against her were in respect of the charges of misappropriation and other fraudulent practices such as deliberate omission to bring into account the stock received showing bogus issues in the records, falsification of accounts, submission of defective accounts, tampering of records, manipulation of accounts and records, etc. Thus, the respondent herein was proceeded against for quite different charges and on different sets of facts before the Court of



Chief Judicial Magistrate, on the one hand, and before the departmental enquiry on the other.

35. In the instant case, the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning and, therefore, in our opinion, the matter should be dealt with firmly with firm hands and not leniently. In the instant case, the respondent deals with public money and is engaged in financial transactions or acts in a fiduciary capacity and, therefore, highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, the conclusion of the learned Single Judge as affirmed by the Division Bench of the High Court do not appear to be proper. We have no hesitation to set aside the same and restore the order passed by the disciplinary authorities upholding the order of dismissal.”

9. In this view of the matter, no liberty could be granted to the petitioner, and hence, the present writ petition is hereby dismissed.

10. The Officials are directed to conclude the departmental proceeding within 90 days from today.

11. The order of stay of on-going departmental



proceeding dated 11.05.2018 is hereby vacated.

12. With the aforesaid direction, the present writ application stands dismissed.

(Dr. Anshuman, J.)

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