

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9986 of 2024

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Shila Sinha Wife of Sri Vinod Kumar Sinha, Resident of Mohalla- Nai Basti Mahadewa, Siwan, P.O., P.S. and District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Saran Division, Chapra.
3. The District Magistrate, Siwan.
4. The Dy. Collector, Establishment Siwan.
5. The District Supply Officer-cum-Conducting Officer, Siwan.
6. The Sub-Divisional Magistrate, Siwan.
7. The Treasury Officer, Siwan.
8. The In-charge Officer, District Confidential Section, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh
For the Respondent/s : Mr. Gyan Prakash Ojha, GA 7

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 03-07-2024 The instant writ petition is against the respondents' especially, the respondent no. 2's inaction in the matter of disposal of Service Appeal No. 38-15/ 2023 (Shila Singh Vs. The State of Bihar and Ors.).

2. The delinquent employee has approached this Court, alleging, *inter alia*, that previously against the punishment order passed by the disciplinary authority, she filed a writ petition bearing no. CWJC No. 7068 of 2016, the said writ petition was disposed of, granting liberty to the petitioner to file a Service Appeal before respondent no. 02 and in case of



filing such appeal respondent no. 02 would dispose of the Service Appeal within a specific period of time. It is contended on behalf of the petitioner that the Appeal was preferred on 23rd October 2023 but till date the Service Appeal has not been decided by the Divisional Commissioner.

3. Learned advocate appearing on behalf of the respondents submits, taking me to the Annexure P/9 that the Service Appeal was not informed moreover, the prayer of the petitioner was to comply with the order passed in CWJC No. 7068 of 2016. In the above mentioned writ petition, respondents were not directed to pass any order. On the contrary, the petitioner was given liberty to file a Service Appeal before the respondent no. 02, since the form of appeal as well as the prayer is not in conformity with the rules. The Divisional Commissioner did not find any scope to dispose of the same.

4. I have carefully perused the Annexure P/9 and I am in conformity with the learned Advocate appearing on behalf of the State that Annexure P/9 is not in form as well as the prayer portion is not happily drafted. However, Annexure P/9 contains grounds nos. 01 to 07 which are the grounds stated by the petitioner in Appeal. It is needless to say that the State Authority cannot sit tight over an application which ought to be treated as



memorandum of appeal on technical ground that it was not in a proper form or that prayer portion was not properly drafted. It is needless to say that the rules of procedure are handmade of justice and substantive justice cannot be denied for improper representation of rules of procedure.

5. In view of the above discussion, the instant writ petition is disposed of directing the respondent no. 02 to accept Annexure P/9 as memorandum of appeal and to dispose of the same within four months from the date of communication of this order.

6. Accordingly, the instant writ petition is thus, disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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