

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11780 of 2024

Ashwini Kumar Son of Late Rameshwar Prasad, Resident of- Behind Sidhu Kanu Ground, Near Mount Litera School, Bazaar Tall, Gola Road, P.O. and P.S.- Ramgarh Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Secretary to Minister (The Appellate-cum- Revisional Authority), Revenue and Land Reforms Department, Bihar, Patna.
4. The Director, Land Acquisition-Cum- Additional Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
5. The Joint Secretary, Revenue and Land Reforms Department, Bihar, Patna.
6. The Special Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
7. The Commissioner, Patna Division, Patna.
8. The District Magistrate, Nalanda.
9. The Additional Collector, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar, Advocate Mr. Ayush Kumar, Advocate Mr. Shikhar Mani, Advocate Ms. Lakshmi Kumari, Advocate Mr. Rishabh Gupta, Advocate Mr. Rajnish Prakash, Advocate
For the Respondent/s	:	Mr. Sunil Kumar Mandal, SC-3 Mr. Neelam Kumari, AC to SC-3

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 08-08-2024 The petitioner is a Circle Officer posted at Katari Sarai in the District of Nalanda. On the basis of a Vigilance Trap, he was allegedly caught red-handed on 20.03.2018, while receiving bribe of Rs.10,000/-. On the basis of a complaint



lodged by a member of the trap team of Vigilance Investigation Bureau, Vigilance Case No.11 of 2018 was registered for the offence under Sections 7/13(1)(a) read with Section 13(1)(d) of the Prevention of Corruption Act.

2. On the same charge, the petitioner was suspended and the departmental proceeding was initiated against him, on the basis of the memorandum of charge framed by the District Magistrate, Nalanada. In the memorandum of charge, two witnesses have been cited and some documents were proposed to be proved on behalf of the prosecution to prove his misconduct.

3. The enquiry officer submitted his report holding the petitioner guilty and on the basis of the report, the departmental authority punished him with an order of termination from service. The said order was also approved by the Appellate Authority. The petitioner has challenged the order of termination in the instant case, mainly on the ground that the District Magistrate not being the appointing authority of the petitioner, has no right to formulate and serve memorandum of charge to the petitioner. Secondly, during the enquiry proceeding, the petitioner was not given chance to cross examine the witnesses on behalf of the prosecution. Practically no witness was



examined by the enquiry officer and on the basis of the alleged trap report he was held guilty.

4. I have perused entire record of the instant writ petition.

5. I have also heard the learned Advocate for the petitioner as well as learned counsel for the State-Respondents.

6. The procedure for departmental enquiry for major punishment has been prescribed in Rule 17 of the Bihar Government Servants (Classification Control and Appeal) Rules, 2005. The rule postulates that the departmental enquiry is to be done on the basis of the principle of natural justice and following the rules scrupulously. When in order to prove charge, the witnesses and documents have been proposed to be examined and brought in evidence. The enquiry officer is under obligation to examine the witnesses and give opportunity to the petitioner to cross examine the said witnesses. The documents are also to be proved in accordance with law and the petitioner shall be given opportunity to rebut the genuineness and authenticity of the document, in course of cross examination and also written statement of defense.

7. This Court has come to this conclusion that the departmental enquiry has not been done in accordance with



Rule 17 of the CCA Rules, 2005.

8. In view of such circumstances, the report of the enquiry officer and the order of punishment passed by the Disciplinary Authority as well as the Appellate Authority are quashed and set aside.

9. The respondents are directed to permit the petitioner to join his service.

10. The case is remitted back with a direction to the enquiry officer to start de novo enquiry, after giving opportunity to the petitioner of being heard, cross examined the witnesses and challenged the documents proposed to be brought in evidence during enquiry. The entire process of enquiry shall be disposed of within four months from the date of communication of this order.

11. The period of dismissal be treated as the period of suspension and subsistence allowance be paid to the petitioner.

12. Accordingly, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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