

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16272 of 2022

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1. Devendra Kumar Ram S/o Sri Yashodhar Ram, resident of Village and Post Officer-Barhara, Police Station Nauhatta, District-Saharsa, presently Drug Inspector, Rohtas-I, Department of Health and Family Welfare, Government of Bihar, Patna.
 2. Md. Wasim Akhtar S/o Md. Idris Ansari, Resident of Idris Manzil Sector-A, New Azimabad Colony, P.S.-Bahadurpur, Patna-800006.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secreary, Department of Health and Family Welfare, Government of Bihar, Patna.
2. The Additional Chief Secretary, department of Health and Family Welfare, Government of Bihar, Patna.
3. The Additional Chief Secretary, Department of Health and Family Welfare, Government of Bihar, Patna.
4. The State Drug Controller, Directorate of Health, Department of Health and Family Welfare, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Avinash Kumar, Advocate Mr. Krishna Chandra, Advocate
For the State	:	Mr.Pankaj Kumar (Sc12) Mr. Kamlesh Kishore, AC to SC-12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 12-03-2024

The present writ petition has been filed
seeking the following relief:-

“i. For issuance of an appropriate Writ/Writs, direction/directions in the nature of Certiorari or Writs, Order or Orders for Quashing/Setting aside the Resolution contained in Memo No.- 670 (15) dated 15.07.2022 by which the composite punishment of withholding of one



increment of pay without cumulative effect and 'Warning' has been awarded to the Petitioners without resorting to procedures, as stipulated for holding any Departmental Proceeding to Examine/record findings of individual delinquency before inflicting the punishment of the kind, under the provisions of the Bihar CCA Rules, 2005 and further the nature of Punishment so recorded being malafide in law as well on the facts, thus warrants interference by this Hon'ble Court.

ii. For issuance of an appropriate Writ/Writs, direction/directions in the nature of Mandamus or Writs, order or orders for directing the concerned Respondent/s to produce all connected records for perusal of the same for passing an appropriate order."

2. Shorn of unnecessary details, it would suffice to state that a show-cause notice dated 08.06.2022 was served upon the petitioners and others on the allegation that despite the directions of the Hon'ble Supreme Court, issued vide judgment dated 28.08.2020, passed in the case of ***Union of India vs. Ashok Kumar Sharma***, reported in ***2020 SCC online SC 683***, to the effect that complaint cases are to be filed for the



offences under the Drugs and Cosmetic Act, 1940, the authorities of the Health Department, particularly, the Drug Inspectors and others are still filing FIRs, which is not in consonance with law. The petitioners are stated to have submitted their reply to the said show-cause notice dated 08.06.2022, *inter alia* stating therein that the aforesaid judgment of the Hon'ble Supreme Court was circulated to the petitioners and other Drug Inspectors, vide departmental letter dated 15.09.2021, however, the allegation regarding filing of FIRs dated 02.08.2021 and 21.08.2021 qua the petitioners herein, pertains to a period prior to issuance of the said departmental letter dated 15.09.2021, hence they cannot be held responsible for any error. Nonetheless, the Joint Secretary to the Government, Health Department, Government of Bihar, by the impugned order dated 15.07.2022 has, without either furnishing any reason or considering/dealing with the show-cause reply filed by the petitioners, has inflicted the punishment of stoppage of one wage increment without



cumulative effect and has also issued warning.

3. The learned counsel for the petitioner has submitted that non-consideration of the show-cause reply filed by the petitioners as also non-furnishing of cogent, clear and succinct reasons for coming to a decision to inflict the aforesaid punishment upon the petitioners and others amounts to violation of the principles of natural justice, hence the impugned order dated 15.07.2022 is fit to be set aside. Reference in this connection has been made to a judgment rendered by the Hon'ble Apex Court in the case of **Oryx Fisheries (P) Ltd. vs. Union of India**, reported in **(2010) 13 SCC 427**.

4. *Per contra*, the learned counsel for the respondent-State has submitted that there is no illegality as far as the order of punishment dated 15.07.2022, is concerned, inasmuch as only a minor punishment has been inflicted upon the petitioners for which it is sufficient that a show-cause notice is issued to the petitioners, their reply is sought whereafter, the order inflicting minor



punishment is passed.

5. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that firstly, the show-cause reply filed by the petitioners has not been considered by the disciplinary authority while passing the impugned order dated 15.07.2022, inasmuch as the same does not deal with the defence put forth by the petitioners, and secondly, no cogent, clear and succinct reasons have been furnished by the disciplinary authority so as to arrive at a decision to inflict punishment upon the petitioners, which is an indispensable component of a decision making process, hence the impugned order dated 15.07.2022, being perverse and contrary to the law laid down by the Hon'ble Apex Court in the case **Oryx Fisheries (P) Ltd.** (supra), is quashed qua the petitioners herein.

6. It is needless to state that the petitioners would be entitled to the consequential benefits as a result of quashing of the impugned order dated 15.07.2022.



7. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.03.2024
Transmission Date	NA

