

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5541 of 2018

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Ashok Kumar Verma, Son of Late Lalit Kishore Prasad, Resident of Kachari Road Mahi Khandak, at Ambar, P.S.- Biharsharif, District- Nalanda at present Barmasiya, P.O.- Makolpur, P.S.- Giridih, District- Giridih, Jharkhand.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Commissioner, Patna Division, Patna.
3. District Magistrate, Nalanda at Biharsharif.
4. Additional Collector cum Enquiry Officer of Departmental Proceeding Case No.16/2013-14, Biharsharif
5. Anchal Adhikari, Rajgir, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Md.Imteyaz Ahmad, Advocate
For the Respondent/s : Mr.Md.Khurshid Alam -AAG12

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 25-10-2024

Heard Learned Counsel for the petitioner and Learned

Counsel for the respondent.

2. The present Writ Petition has been filed for setting aside the order as contained in Memo No. 2340 dated 30.09.2014 issued by the District Magistrate -cum- Collector, Nalanda by which the petitioner has been dismissed from service. Further prayer has been made to set aside the order dated 16.01.2018 passed by the Appellate Authority i.e. the Divisional Commissioner, Patna in Service Appeal No. 288 of 2015 by which the order of dismissal from service passed by the



Disciplinary Authority has been affirmed.

3. Learned Counsel for the petitioner submits that the petitioner was appointed to the post of *Moharrir* in the Department of Consolidation, Government of Bihar in the year 1984 and was posted at Madanpur in the District of Aurangabad. After the end of the consolidation proceeding, he was transferred to the revenue department and posted as Revenue Karmchari in Rajgir Circle during the relevant period. Counsel submits that he was suspended vide order contained in Memo No. 3454 dated 12.10.2012 with the allegation that he had mutated Plot No. 5696 which was within the boundary of the land acquired for the office of Rajgir Circle Office. The said plot was purchased by the wife and others. Counsel further submits that *Prapatra-Ka* was served upon him vide Memo No. 87 dated 29.01.2024 with four charges. Firstly, for making recommendations adverse to the existing Revenue Law for creating Jamabandi. Secondly, for making illegal recommendations for mutation of the land acquired by the Rajgir Block Office. Thirdly, for making an entry of mutation in Register-II of another village and fourthly, for the commission of financial irregularities. Counsel further submits that the petitioner submitted his show cause on 12.02.2014 and appeared



in the departmental proceeding with his reply dated 25.06.2024 along with relevant enclosures. Thereafter, in the enquiry proceeding, three charges were found true against him, and the fourth charge was not proved. The matter was recommended to the Disciplinary Authority and a second show cause notice was issued to the petitioner, vide Memo No.2125 dated 04.09.2014. In response thereof, the petitioner replied which was received in the office of the District Magistrate -cum- Collector, Nalanda on 18.09.2014, who is Disciplinary Authority. The final order was passed by the Disciplinary Authority contained in Memo No. 2340 dated 30.09.2014, by which punishment for dismissal from service has been passed. Being aggrieved and dissatisfied, the petitioner has preferred Service Appeal before the Divisional Commissioner-cum the Appellate Authority in Service Appeal No. 288 of 2015. In the Service Appeal, the final order was passed on 16.01.2018 by which the order passed by the disciplinary authority has been affirmed. Thereafter, the petitioner has preferred the present Writ petition challenging both the orders.

4. Learned Counsel for the petitioner submits that an application was filed for measurement of the land numbered Demarcation Case No. 11 of 2006 in which measurement was



done by the Circle Amin, on the order of the then Circle Officer, Rajgir and out of 1.52 acre of land in Plot No. 5596 under Khata No. 64, only 27 decimal falls in the premises of Rajgir Block Office. Counsel further submits that the total land of Plot No. 5596 having area 1.25 Acre does not fall in the premises of Rajgir Block. Out of 1.25 Acres of land of Plot No. 5596, 1.08 acres of land remained in the possession of land holder and 14 decimals of land were purchased by his wife.

5. Learned Counsel further submits that Plot No. 5596 Khata No. 64 belongs to one Ramjan Mian and there are several other plots situated under Khata No. 64. He further submits that there is not a single document on record to show that the acquired land of Rajgir Block by virtue of Land Appeal Case No. 72 of 1955-56 was purchased by the wife of the petitioner. He further submits that the descendant of Ramjan Mian namely, Md. Akbar Sah has filed an application along with a genealogical table on an affidavit showing that he is the legal heir of late Ramjan Mian along with a rent receipt of the year 1960. On the basis of said application, Mutation Case No. 19/2009-10 was instituted and vide order dated 09.09.2019, the mutation was done in the name of Md. Akbar Sah. Counsel further submits that this aspect has completely been ignored by



the Disciplinary Authority and without considering the show cause filed by the petitioner, before the District Magistrate-cum-Collector, final order has been passed. Counsel submits that it has not been considered either by the Enquiry Authority or the Disciplinary Authority or the Appellate Authority that Revenue law has been followed and without any basis or document, charges were proved against him. It has been mentioned that no document has been exhibited nor Register -II has been placed in the proceeding nor it has been proved that the mutation has wrongly been done. Counsel submits that in this background, the decision of the Enquiry Authority and Disciplinary Authority and subsequently by appellate authority are bad in law and fit to be declared invalid. Hence, a direction be made to accept the joining of the petitioner after setting aside the orders impugned.

6. Learned Counsel for the State on the other hand submits that the present Writ Petition is fit to be dismissed. It has been stated that Anil Kumar Sharma, Ashok Kumar Verma (petitioner), and Ashok Kumar were posted as Circle Officer, Halka Karmachari, and Head Clerk respectively in the Circle Office, Rajgir. Learned Counsel for the State further submits that the allegation against the above revenue authorities was that they manipulated the revenue records and got the sale deed



executed in favour of their wives. In fact, the said land belongs to one Upadhyay family who had purchased the land in the years 1922 and 1932 from the khatiyani raiyat namely, Ramjan Mian. It has been argued that when the Upadhyay family came to know about this fact they made an application before the District Magistrate, Nalanda and also filed CWJC No. 7518 of 2022. In this background, this matter was enquired and it has been found that all three revenue authorities by using their official powers manipulated the revenue records and created forged documents which is a very serious offence and for that criminal as well as departmental proceedings were initiated against them. Counsel submits that the said illegality transpires from Mutation Case No. 19 of 2009-10 in which the Jamabandi has been opened in the name of heir of Ramjan Mian by the Circle Officer on the basis of illegal recommendation made by the Halka Karmchhari and the Circle Inspector in spite of the fact that the said plot was purchased by one Kashinath Upadhyay by virtue of deed No. 2564 dated 30.09.2022 which is subject matter of CWJC No. 7518 of 2022. Learned Counsel further submits that a part of the land was acquired by the Government of Bihar by virtue of Land Appeal Case No. 72 of 1955-56 in which payment towards acquisition was made to Upadhyay family.



7. Learned counsel for the State further submits that due opportunity had been provided to the petitioner in the departmental proceeding which was conducted as per the Rules of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 and after affording due opportunity to the parties. In the departmental proceeding, the principles of natural justice has been followed and the inquiry proceeding was conducted followed by serving of enquiry report, second show cause made to the petitioner and upon consideration of reply, the final order of punishment was passed in which out of four charges, three charges were proved against the petitioner.

8. Learned Counsel for the State further submits that after granting due opportunity the enquiry authority, disciplinary authority, and appellate authority reached on a consistent finding on the factual matrix and found that the charge proved. As such, appropriate punishment has been imposed upon the petitioner. He further submits that by virtue of the present Writ Petition, the petitioner wants re-appreciation of evidence that is not tenable in the eyes of the law. In support thereof, Counsel relied on a decision rendered by the Hon'ble Apex Court in the case of ***Union of India Vs. Mangoninda Samantaray*** reported in **2022 live law SC 244** in which it has been held that the Writ Court



cannot interfere in the quantum of punishment imposed by the disciplinary authority unless it is disproportionate. He further submits that the quantum of punishment, is within the discretionary power and domain of the decision making authority. Counsel further submits that it is a case of serious allegation, where the petitioner being Halka Karmchari being custodial of the revenue records have manipulated the records and created forged documents in their own favour and interest. He further submits that if such type of wrong shall be ignored then not a single piece of land either raiyati or Government can be protected and a multiplicity of litigation will arise in the welfare state.

9. Upon hearing the parties and perusal of material available on record, it transpires to this Court that on the allegation made by Kashinath Upadhyay who purchased the said land from Bhubneshwar Upadhyay whose father had purchased the land from the fore father of Akbar Sah who sold this land to Kashinath Upadhyay in the year 1922 through a registered sale deed but this fact has been suppressed.

10. In view of this Court, the disciplinary proceeding and the criminal cases have been instituted and in the disciplinary proceeding, the consistent findings of the Enquiry



Authority, Disciplinary Authority and Appellate Authority are there. Moreover, re-appreciation of evidence is not permissible in case of consistent findings based on preponderance of probability. The Revenue Officer requires stain integrity in his work which is lacking in the present case and the petitioner has purchased the land in the name of his wife, the allegation that by manipulation in the record by way of illegal recommendation for mutation of land by opening of Jamabandi in the name of son of Ramzan Mian who has already sold the land to others. Hence, this Court is not inclined to interfere in the consistent finding of facts and the punishment is appropriate in the view of this Court.

12. Therefore, this Court dismissed the present Writ Petition.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	28/10/2024
Transmission Date	NA

