

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.84 of 2020

In

Civil Writ Jurisdiction Case No.23817 of 2019

=====

Balram Mandal Son of Late Suren Chandra Mandal, Resident of Village-Khatti Bhawanipur, Ward No. 02, P.O.- Par Diyara, P.S. Amdabad, District-Katihar.

... .. Appellant/s

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Purnea Division, Purnea.
5. The District Education Officer, Katihar, District- Katihar.
6. The District Programme Officer, (Madhyam Bhojan Project), Katihar, District- Katihar.
7. The District Programme Officer (Establishment), Katihar, District - Katihar,
8. The Block Education Officer, Amdabad, District - Katihar.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Sharda Nand Mishra, Advocate Mr. Bishwanath Mahto, Advocate Mr. Atul Kumar, Advocate Mr. Dhandev Kumar, Advocate
For the Respondent/s	:	Mr. S.S. Tiwary, AC to AAG-15

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-03-2025

The matter heard at length on 19.02.2025 and we have passed the following order:-

“Learned counsel for the respondents- Mr. Prabhat Ranjan Singh is hereby directed to secure instruction before ordering recovery/ asking the appellant to deposit a sum of Rs. 1,03,790/- towards certain alleged misdeeds stated to have



been committed by the appellant, whether departmental inquiry has been initiated or concluded or not?

2. Relist this matter on 05.03.2025, if the aforementioned information is not provided by the next date of hearing Respondent No. 6 would be summoned.”

2. Today, learned counsel for respondents submitted on instruction that no departmental enquiry has been ordered before passing the impugned order. The same has not been appreciated by the learned Single Judge in its order dated 16.12.2019 passed in C.W.J.C. No. 23817 of 2019. Basic principle is before passing any adverse order and if it has civil consequences, in such circumstances, minimum requirement is providing oral hearing, notice and other formalities. In the present case, appellant is a government servant. If he is alleged to have committed any misdeeds, in such circumstances he should be subjected to disciplinary proceedings under Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (For short ‘CCA Rules’). The same has not been resorted to before passing impugned order. Resultantly, the impugned order bearing Memo No. 268 dated 13.06.2019 and letter as contained in Memo No. 1245 dated 07.09.2019 read with order of the learned Single Judge dated 16.12.2019 passed in C.W.J.C. No. 23817 of 2019 are set aside.

3. Having regard to the alleged fact that the appellant



is stated to have committed misdeeds relating to a sum of Rs. 1,03,790/- and there is alleged financial loss caused to the State Exchequer, therefore, the present matter is warranted for remand for holding departmental enquiry against the appellant in the light of Hon’ble Supreme Court decision in the case of *ECIL vs. B. Karunakaran* reported in (1993) 4 SCC 727 and *Chairman- cum- Managing Coal India Ltd. vs. Ananta Saha and Ors.* reported in (2011) 5 SCC 142 read with *State of Uttar Pradesh & Ors. vs. Prabhat Kumar* reported in 2022 Live Law SC 736.

4. Accordingly, the matter is remanded to the disciplinary authority to initiate departmental enquiry in accordance with relevant C.C.A. Rules and complete the enquiry proceedings within a period of six months, failing which the appellant need not be subjected to disciplinary proceedings.

5. With the above observations, the present L.P.A. stands allowed.

6. Pending I.A(s)., if any, stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

rakhi/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	18.03.2025
Transmission Date	

