

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8558 of 2021

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Ajay Kumar, Son of Late Ram Prasad Yadav, resident of Mohalla - Deewan Road, Police Station- Nagar, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary-cum-Appellate Authority, Agriculture Department, Government of Bihar, Patna.
3. The Secretary, Agriculture Department, Government of Bihar, Patna.
4. The Agriculture Director, Department of Agriculture, New Secretariat, Patna.
5. The Joint Agriculture Director, Tirhut Division, Muzaffarpur-cum-Inquiring Officer, District Muzaffarpur.
6. The District Agriculture Officer, Bettiah, West Champaran-cum-Presenting Officer, District-West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Kumar, Advocate
For the Respondent/s : Mr. Sarvesh Kr. Singh, AAG-13

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 02-07-2025 Heard the parties.

2. The petitioner is aggrieved with the memo no. 186 dated 04.03.2020 (wrongly typed as 2019) passed by the respondent no. 3, whereby the appeal preferred by the petitioner came to be rejected and the order of dismissal dated 09.07.2019 passed by the respondent no. 4 stands affirmed. The petitioner also assailed the order contained in memo no. 431 dated 09.07.2019 issued under the signature of the Agriculture Director, Department of Agriculture, Bihar, Patna whereby the



petitioner has been inflicted with major punishment of dismissal from service from the post of Block Agriculture Officer.

3. The facts of the case are admitted that while the petitioner was discharging his duty as Block Agriculture Officer, Sikta, West Champaran, on account of alleged dereliction of duty, he was placed under suspension in contemplation of departmental proceeding under Rule 9(1) of Bihar Government Servant (Classification, Control and Appeal Rules, 2005) hereinafter referred to as 'Rules, 2005'. The petitioner was served with the memo of charge and after appointment of Conducting Officer as well as Presenting Officer, he was directed to join the enquiry. The petitioner submitted his explanation, however the same did not find favour and the enquiry officer returned his finding of guilt, leading to dismissal of the petitioner after serving second show cause notice, which is under challenge.

4. Adverting to the aforesaid facts, Mr. Suresh Kumar, learned Advocate for the petitioner submits that the order of dismissal came to be passed by the Director, Agriculture is wholly without jurisdiction, inasmuch as, he is not the disciplinary authority of the petitioner; moreover, such issue has already been crystallized and set at rest by a Bench of this Court



in the case of ***Ganesh Kumar vs. The State of Bihar & Ors., C.W.J.C. No. 4132 of 2020*** wherein the identical issue was under consideration and the order of penalty was also found to be without jurisdiction and set aside. Reliance has also been placed on a Bench decision of this Court in the case of ***Rajesh Kumar Sharma @ Rajesh Sharma vs. The State of Bihar & Ors., C.W.J.C. No. 21383 of 2021*** wherein the learned Court on being found the Director (Agriculture) was not the competent authority for inflicting the penalty, set aside the impugned order with liberty to the authorities to proceed in accordance with law. The case of the petitioner is based on parity with that of Ganesh Kumar in C.W.J.C. No. 4132 of 2020 and Rajesh Kumar Sharma in C.W.J.C. No. 21383 of 2021.

5. Learned Advocate for the petitioner further contended that during the pendency of the writ petition, now the petitioner already attained the age of superannuation and retired on 01.02.2023.

6 . On the other hand, learned Advocate for the State fairly contended that though initially the department had contemplated to prefer the Letters Patent Appeal against the order passed by the Hon'ble Single Judge as noted hereinabove, however, in the light of the opinion of the learned Advocate



General, the department has not preferred Letters Patent Appeal, rather a fresh proceeding has been initiated in the light of the order of this Court.

7. Considering the submissions set forth by learned Advocate for the respective parties, this Court is of the opinion that the case of the petitioner is squarely covered with the Bench decision of this Court referred hereinabove. Accordingly, the impugned order of dismissal as contained in memo no. 431 dated 09.07.2019 stands set aside. On account of setting aside the order of dismissal, the appellate order contained in memo no. 186 dated 04.03.2020 also does not survive and the same also stands quashed. The petitioner shall be entitled to all the admissible consequential benefits.

8. The writ petition stands allowed with the liberty to the authorities to proceed further, if so advised, in accordance with law.

(Harish Kumar, J)

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