IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.685 of 2024
In
Civil Writ Jurisdiction Case No.7162 of 2016

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1. The State of Bihar
2. The Principal Secretary, Water Resources Department,Govt. of Bihar, Patna.
3. The Special Secretary, Water Resources Department, Govt. of Bihar, Patna.
4. The Additional Secretary, Water Resources Department, Govt. of Bihar, Patna.

... ... Appellant/s

Versus

Manoj Kumar Son of Late Braj Nandan Prasad, Resident of B-103, People Co-operative Colony, Kankarbagh, P.S. Kankarbagh, District-Patna.

... ... Respondent/s

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Appearance :

For the Appellant/s : Md. Nadim Seraj, GP-5
Mr. Ali M. Ahmad, Advocate
Md. Shahbaj Alam, Advocate

For the Respondent/s : Mr.Bajarangi Lal, Advocate
Mr. Aman Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE DR. ANSHUMAN

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE DR. ANSHUMAN)

Date : 16-12-2025

Heard learned counsel for the appellant-State and the respondent.

2. The present Letters Patent Appeal has been filed against the oral judgment dated 28.03.2024, as modified by the oral order dated 16.04.2024, passed in CWJC No. 7162 of 2016, whereby the writ petition filed by the writ petitioner–respondent

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herein has been allowed by quashing the order of punishment dated 22.10.2014 contained in Memo No. 1557, as well as the order dated 10.08.2015 issued by the Additional Secretary, Water Resources Department, Government of Bihar, Patna, contained in Notification No. 1772. The learned Single Judge has further directed the respondent authorities to issue all consequential orders in accordance with law within six weeks from the date of production of a copy of the said order.

3. Learned counsel for the appellant submits that the finding recorded by the learned Single Judge in paragraph 18 of the judgment is as follows:

> *"Having regard to the facts and circumstances of the present case, it appears from the perusal of the second show-cause notice that the disciplinary authority has not followed Rule 18 of the Bihar CCA Rules, 2005, in its true letter and spirit, while differing with the finding of the enquiry officer, and it further appears from the second show-cause notice that the disciplinary authority has framed a new charge against the petitioner relating to the land in question, which was initially not the subject matter of the memo of charge."*

3.1 Learned counsel for the appellant-State categorically submits that the aforesaid finding of the learned Single Judge is perverse and not in accordance with law. He further submits that under Rule 18 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

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(hereinafter referred to as the "CCA Rules, 2005"), it is well within the power of the disciplinary authority to disagree with the findings of the enquiry officer on any article of charge. It is also within the authority's power to record reasons for such disagreement and to record its own findings on the charge, if the evidence on record is sufficient. He further submits that under Rule 18(3) of the CCA Rules, 2005, the disciplinary authority is required to forward a copy of the inquiry report, along with its own findings, if any, as provided under sub-rule (2), to the government servant, who may submit his or her written representation within fifteen days.

3.2 Learned counsel further submits that the second show-cause notice was issued by the disciplinary authority after disagreeing with the enquiry report, which is evident from Annexure-7, letter dated 20.01.2014, through which the disagreement memo, in compliance with Rule 18(2) and 18(3) of the CCA Rules, 2005, was forwarded to the delinquent employee.

3.3 Learned counsel for the appellant – State further submits that appellant has followed the principle of natural justice as well as the provision of Bihar CCA Rules, 2005. The writ petitioner was granted reasonable opportunity to place his

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defense and after considering the defense placed by him the disciplinary authority awarded punishment to the writ petitioner. However, the learned Single Judge has erroneously held that the said letter was issued in gross violation of Rule 18 of the CCA Rules, 2005.

4. Learned counsel for the appellant submits at the outset that the learned Single Judge exceeded the permissible limits of judicial review by reappreciating the evidence as if sitting in appeal over the findings of the disciplinary authority. In Support of his contention, he refers to the decision of the Hon'ble Supreme Court in ***Union of India and Ors. vs. P. Gunasekaran, (2015) 2 Supreme Court Cases 610*** wherein the Hon'ble Supreme Court has held that the High Court, while exercising jurisdiction under Articles 226 and 227 of the Constitution, shall not act as a second court of first appeal and cannot embark upon a re-evaluation of the evidence led before the enquiry officer.

4.1 Paragraphs 12 and 13 of ***P. Gunasekaran*** lay down that the High Court, in judicial review of disciplinary proceedings, cannot reappreciate evidence, examine adequacy or reliability of the evidence, or correct findings of fact, so long as the enquiry was conducted by a competent authority, in

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accordance with prescribed procedure, without violation of natural justice and based on some legal evidence. The aforesaid paragraph no.12 and 13 are as hereunder **:-**

> *"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:*
>
> *(a) the enquiry is held by a competent authority;*
>
> *(b) the enquiry is held according to the procedure prescribed in that behalf;*
>
> *(c) there is violation of the principles of natural justice in conducting the proceedings;*
>
> *(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
>
> *(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
>
> *(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
>
> *(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
>
> *(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
>
> *(i) the finding of fact is based on no evidence."*
>
> ***13.** Under Articles 226/227 of the Constitution of India, the High Court shall not:*
>
> *(i) reappreciate the evidence;*
>
> *(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
>
> *(iii) go into the adequacy of the evidence;*
>
> *(iv) go into the reliability of the evidence;*
>
> *(v) interfere, if there be some legal evidence on which findings can be based.*
>
> *(vi) correct the error of fact however grave it may appear to be;*
>
> *(vii) go into the proportionality of punishment unless it shocks its conscience.*

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5. Learned counsel next refers to the judgement in ***State of Rajasthan and Ors Vs. Heem Singh*** reported in ***(2021) 12 Supreme Court Cases 569,*** wherein in paragraph 37 the Hon'ble Supreme Court has clarified the scope of judicial review in disciplinary matters by drawing attention to the two ends of the spectrum: judicial restraint on the one hand, and permissible interference in cases of perversity or findings based on no evidence on the other.

5.1 The judgement rendered in Heem Sing (supra) explains that while deference must be shown to the findings of the disciplinary authority, the Court may interfere where findings suffer from perversity, are unsupported by evidence, or vital evidence has been ignored. The standard of proof in disciplinary matters is the civil standard of preponderance of probabilities, not proof beyond reasonable doubt, and the Court must avoid substituting its own view for that of the disciplinary authority. Paragraph 37 of the aforesaid judgement reads as under :-

> ***37.*** *In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The Judge does not assume the mantle of the disciplinary authority. Nor does the Judge wear the hat of an employer. Deference to a finding of fact*

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by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy — deference to the position of the disciplinary authority as a fact-finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognised it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the Judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the Judges' craft is in vain."

6. Learned counsel further places reliance on ***Director General of Police, Railway Protection Force and Ors. Vs. Rajendra Kumar Dubey*** reported in ***(2021) 14 Supreme Court Cases 735,*** wherein the Hon'ble Supreme Court in paragraph

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no. 21.1 reiterated that the High Court, in exercise of its writ jurisdiction, must not act as an appellate authority and cannot reassess the evidence considered by the enquiry officer.

6.1 Hon'ble Supreme Court reaffirms that in disciplinary matters, the High Court cannot reassess or re-evaluate evidence and may interfere only on limited grounds relating to procedural irregularity, violation of natural justice, or findings unsupported by any evidence. Relevant paragraph 21.1 reads as under :-

> ***21.1.*** *We will first discuss the scope of interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings. It is well settled that the High Court must not act as an appellate authority, and reappreciate the evidence led before the enquiry officer. We will advert to some of the decisions of this Court with respect to interference by the High Courts with findings in a departmental enquiry against a public servant."*

7. On the basis of aforesaid submissions, learned counsel for the appellant – State submits that the findings recorded by the learned Single Judge require interference and the judgment dated 28.03.2024, as modified by the oral order dated 16.04.2024 passed in CWJC No. 7162 of 2016, deserves to be set aside.

8. Learned counsel for the respondent, on the other hand, submits that the order passed by the learned Single Judge, which is under challenge in the present appeal, is fully in

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accordance with law and does not warrant any interference. It is submitted that the present appeal is liable to be dismissed. Learned counsel for the respondent further submits that Rule 18(2) and 18(3) of the CCA Rules, 2005 clearly mandate that, in the event the disciplinary authority disagrees with the findings of the enquiry authority on any article of charge, the disciplinary authority must record its reasons for such disagreement as well as its own findings on the said charge.

8.1 Learned counsel for the respondent further contends that the essential requirement under Rule 18(2) of the CCA Rules, 2005 is that the disagreement memo must relate strictly to the charges as framed in the original charge memo, and it cannot introduce any new or unrelated allegations. However, in the present case, upon perusal of the letter dated 20.01.2014 (disagreement memo) as well as the second show cause notice clearly reveals that new allegations were introduced, which amounts to a gross violation of Rule 18 of CCA Rules, 2005. It is, therefore, submitted that the learned Single Judge rightly interfered with the findings of the disciplinary authority and consequently set aside both the order of punishment and the review order. Hence, no interference is called for in the impugned judgment.

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9. With a view to decide the said issue that whether finding of learned single Judge as mentioned in para 18 of the judgement quoted above, it is necessary to brought on record three aspects of the matter on record.

9.1 Firstly, the provision of CCA Rules, 2005 laid down i.e. Rule 18(2)(3) as under :-

> *"(2) The disciplinary authority, after receipt of the enquiry report as per rule 17 (23) (ii) or as per sub-rule (t), shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding on such charge, if the evidences on record is sufficient for the purpose.*
>
> *(3) The disciplinary authority shall forward or cause to be forwarded a copy of the inquiry report, together with its own findings, if any, as provided in sub-rule (2), to the government servant who may submit, if he or she so desires, his or her written representation or submission to the disciplinary authority within fifteen days."*

9.2 Secondly, the charge alleged at page 23 to the writ petition is as under :-

परिशिष्ट– "क"

(नियम 17 (3) तथा विनियम 3 दृष्टव्य)

प्रपत्र– "क"

1. सरकारी सेवक का नाम:		श्री मनोज कुमार (आई0डी0–2411)
2. पदनाम	:	कार्यपालक अभियन्ता सम्प्रति निलंबित

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3. श्रेणी	:	—
4. वेतन बैंड / ग्रेड–पे	:	-- ग्रेड पे०--
5. जन्म तिथि	:	07.01.1955
6. सेवानिवृत्ति की तिथि	:	31.01.2015
7. आरोप वर्ष	:	--

आरोप

पुनपुन बाढ़ सुरक्षा प्रमण्डल, करबिगहिया, पटना के अन्तर्गत जल संसाधन विभाग की बहुमूल्य सरकारी जमीन का फर्जी दस्तावेज तैयार कर जमीन को अतिक्रमित करते हुए उस पर बहुमंजिली इमारत (अपार्टमेंट) निर्माण की कार्रवाई की जा रही है।

आरोप सं0–1– जालसाजों के द्वारा बहुमंजिली भवन बनाने हेतु आपसे दिनांक 10.01.11 को मांगी गई अनुमति को अमान्य करने की त्वरित कार्रवाई करने की आवश्यकता थी परन्तु जान बुझ कर आपके द्वारा ऐसा नहीं किया गया, जिसके लिए आप दोषी है।

आरोप सं0–2– आवर अनुमंडल पदाधिकारी, नौबतपुर के द्वारा अनुमति नहीं देगे हेतु भेजे गये प्रतिवेदन पर आपके द्वारा अवर अनुमंडल पदाधिकारी को पत्र देना कि ऐसा प्रतिवेदन भेजना सही कार्य नहीं है, यह आपके द्वारा अवर अनुमंडल पदाधिकारी को धमकाने की कार्रवाई है। इस प्रकार आपका इस जालसाजी में सक्रिय सहभागिता एवं जालसाजी को शह देना स्पष्ट रूप से प्रमाणित होता है, जिसके लिए आप दोषी है।

अनु0– 1. प्रेस कतरण की प्रति ।
2. लीज की प्रति।
3. विधि पदाधिकारी द्वारा समर्पित प्रतिवेदन की प्रति।
4. जालसाजो द्वारा मांग की गयी अनापति
प्रमाण पत्र से संबंधित पत्र की छाया प्रति।
5. अवर प्रम० पदा० का पत्रांक 34 दि0–24.01.11
एवं कार्य 0 अभि0 का पत्रांक 251 दि0–03.02.11
की छाया प्रति

(श्याम कुमार सिंह)
सरकार के विशेष सचिव।

9.3 Thirdly, the contents of the second show cause cum disagreement at page 53 and 54 is as follows :-

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पत्रांक – 22 / नि0 सि0 (पट0) –03–12 / 2012 / .....

बिहार सरकार

जल संसाधन विभाग

प्रेषक,

श्याम कुमार सिंह
सरकार के विशेष सचिव।

सेवा में,

श्री मनोज कुमार,
तत्कालीन कार्यपालक अभियंता,
सोन नहर प्रमण्डल, खगौल,
मुख्यालय –मुख्य अभियंता का कार्यालय,
जल संसाधन विभाग, पटना।

पटना, दिनांक – 20.01.2014

विषय :–द्वितीय कारण पृच्छा के संबंध में।

महाशय,

निदेशानुसार उपर्युक्त विषय के संबंध में कहना है कि आप जब (मार्च 2010 से अक्टूबर 2012 तक) कार्यपालक अभियंता सोन नहर प्रमण्डल, खगौल में पदस्थापित थे तब आपके विरूद्ध जल संसाधन विभाग की बहुमूल्य सरकारी जमीन पर बहुमंजिली भवन बनाने हेतु आपके मॉगी गई अनुमति को अमान्य करने की त्वरित कारवाई नहीं करने एवं अवर प्रमण्डल पदाधिकारी, नौबतपुर द्वारा अनुमति नहीं देने के प्रतिवदेन पर आपके द्वारा अनुमण्डल पदाधिकारी को धमकाने के प्रथम दृष्टया प्रमाणित आरोपों के लिए विभागीय अधिसूचना संख्या 1102 दिनांक 10.10.2012 द्वारा बिहार सरकारी सेवक (वर्गीकरण नियंत्रण एवं अपील) नियमावली 2005 के नियम 17 कि तहत विभागीय कार्यवाही प्रारम्भ की गयी।

संचालन पदाधिकारी से प्राप्त जॉच प्रतिवेदन की समीक्षा सरकार के स्तर पर की गयी। समीक्षा में पाया गया कि संचालन पदाधिकारी द्वारा मन्तव्य दिया गया कि उक्त वर्णित जालसाजी एवं धोखाधड़ी का मामला प्रकाश में आने के पश्चात जालसाजी के विरूद्ध आप यथोचित कारवाई करने में सफल नहीं रहे। विभागीय समीक्षा मे पाया गया कि आप सोन नहर प्रमण्डल, खगौल में मार्च 2010 से अक्टूबर 2012 तक रहे हैं। उस अवधि में यह अतिक्रमित भूमि आपके अधीन था। उक्त भूमि पर जालसाजी एवं धोखाधड़ी कर निर्माण कार्य कराये जाने को कार्यवाही आपके पदस्थापन अवधि में हुई। इस दौरान उक्त सरकारी जमीन की रसीद कटता गया, जिसमें विभागीय पदाधिकारी के साथ–साथ अंचलीय पदाधिकारी भी संलिप्त रहे। अवर अनुमण्डल पदाधिकारी, नौबतपुर के द्वारा अनुमति नहीं देने हेतु भेजे गये पत्र पर आपके द्वारा अवर प्रमण्डल पदाधिकारी को पत्र देना कि ऐसा प्रतिवेदन भेजना सही कार्य नहीं है, यह कृत्य आपके द्वारा अवर प्रमण्डल पदाधिकारी को धमकाने की कारवाई है। इस प्रकार आपके विरूद्ध जालसाजी में सक्रिय सहभागिता एवं जालसाजी को शह देना स्पष्ट रूप से प्रमाणित है। समीक्षा में यह भी पाया गया कि आपके द्वारा पदस्थापन काल में अतिक्रमित भूमि की वर्तमान स्वरूप क्या है, लीज सही है या गलत है, इस जालसाजी में किसकी संलिप्तता है इसकी भी न तो जानकारी लेने की प्रयास किया गया और नहीं वस्तु स्थित का सत्यापन ही किया गया। यहॉ तक कि आपके द्वारा प्रशासनिक हस्तक्षेप के लिए कार्रवाई नहीं कर अवर प्रमण्डल पदाधिकारी द्वारा अनापत्ति प्रमाण पत्र निर्गत नहीं करने की अनुशंसा को भी नजर अंदाज कर दिया गया। जो आपके अवैध कार्य में पूर्ण सहभागिता को पुष्ट करता है। उक्त के अतिरिक्त यह भी पाया गया कि उक्त अवधि में उक्त अवक्रमित भूमि आपके प्रमण्डलाधीन रहते हुए भी आपके द्वारा न तो लीज की सत्यता की जॉची गई और न ही इस लीज के विरूद्ध काटे गये रसीद को कैश बुक में दर्ज की गई। उक्त राशि के संबंध में भी किसी प्रकार के छान–बीन का प्रयास नहीं किया गया, बल्कि अपने स्वार्थ की पूर्ति के लिए एवं सरकारी सम्पत्ति को क्षति पहुचो के नियत से अनापत्ति प्रमाण पत्र की मॉग पर भी शीघ्रता से जॉच पड़ताल करने की कार्रवाई के बजाय अपने अधिनस्थ पदाधिकारियों को इस मामले में हस्तक्षेप नहीं करने के लिए अन्यथा प्रयास किया गया जो आपके कुत्सित मंशा का द्योतक है। आपके विरूद्ध दोनों आरोप प्रमाणित होते हैं।

समीक्षोपरान्त संचालन पदाधिकारी के मन्तव्य से असहमति जताते हुए उक्त आरोप को प्रमाणित पाया गया। उक्त प्रमाणित आरोप के लिए निम्नांकित

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असहमति के बिन्दु पर द्वितीय कारण पृच्छा करने का निर्णय लिया गयाः–

उक्त वर्णित तथ्यों से स्पष्ट है कि आपके द्वारा विभागीय भूखण्ड का अवैध रूप से दाखिल खारीज कराने हेतु अपने अधीनस्थों पर दबाव दिया गया। अतएव बहुमूल्य विभागीय भूखण्ड का विभाग से बेदखल कराने में आपकी अहम भूमिका रही।

उक्त वर्णित स्थिति में संचालन पदाधिकारी से प्राप्त जॉच प्रतिवेदन की छाया प्रति संलग्न करते हुए अनुरोध है कि पत्र प्राप्ति के 15 (पन्द्रह) दिनों के अन्दर द्वितीय कारण पृच्छा का जबाब समर्पित करने की कृपा करें। अगर निर्धारित अवधि में आपका जबाब अप्राप्त रहता है तो समझा जाएगा कि इस संबंध में आपको कुछ नहीं कहना है ऐसी स्थिति में विभाग एक पक्षीय निर्णय लेने के लिए स्वतंत्र होगा।

अनु0–जॉच प्रतिवेदन की छाया प्रति।

विश्वासभाजन
ह/–अस्पष्ट
17.01.14
(श्याम कुमार सिंह)
सरकार के विशेष सचिव
17.01.14

10. From the records of the case, it transpires that in the enquiry report, the Chief Engineer-cum-Enquiry Officer has arrived at the finding that the allegations made in the charge memo are not proved against the writ petitioner–respondent herein.

11. Learned counsel for the respondent has further placed before this Court the office order issued from the office of the Executive Engineer, Sone Canal Division, Khagaul, Patna, which is available at page no. 102 of the record and reads as follows

कार्यपालक अभियंता का कार्यालय
सोन नहर प्रमण्डल, खगौल, पटना

पत्रांकः– खगौल, दिनांकः–

–: कार्यालय–आदेशः–

मो0 शकील खॉ व अन्य का आवेदन दिनांक 07.01.2011 अनुलग्नक सहित द्वारा प्लॉट नं0– 118 (वर्तमान एम0 ए0 प्लॉट–588 एवं 589) पर पक्का संरचना निर्माण हेतु अनापत्ति प्रमाण पत्र की मॉग की गयी। परन्तु उनके द्वारा समर्पित कागजात फर्जी व धोखा धड़ी की नियत से तैयार किया गया पाया गया। उल्लेखनीय है कि इस प्रकार को कोई लीज इस

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कार्यालय से निर्गत नहीं है । उक्त के संबंध में इस कार्यालय के पत्रांक 1747 दिनांक 30.08.2012 द्वारा लीज की मूल प्रति उपलब्ध कराने का अनुरोध किया गया। जिसके विरूद्ध में श्री खॉ द्वारा आवेदन दिनांक 08.09. 2012 से पुनः पूर्व की तरह ही फर्जी कागजात उपलब्ध कराया पाया गया। जिसके संदर्भ में पुनः उनसे द्वितीय पृच्छा इस कार्यालय से पत्रांक 1876 दिनांक 12.09.2012 द्वारा की गयी तथा मूल लीज की छाया प्रति किसी राजपत्रित पदाधिकारी द्वारा सत्यापित/अभिप्रमाणित प्रति उपलब्ध कराने का अनुरोध किया गया, परन्तु समय सीमा समाप्ति के उपरान्त भी आज तक उनके द्वारा याचित लीज की प्रति उपलब्ध नहीं कराया गया। इससे स्पष्ट है कि श्री खॉ द्वारा जानबूझ कर धोख की नियत से फर्जी कागज तैयार कर इसके आधार पर वर्णित भूमि का रेन्ट रसीद अवर प्रमण्डल–पदाधिकारी, सोन नहर अवर प्रमण्डल, नौबतपुर से कराया गया। श्री खॉ के आवेदन को अस्वीकृत किया जाता है तथा फर्जी कागजातों एवं जालसाजी के आधार पर सरकारी भूमि अतिक्रमण करने का दोषी पाते हुए श्री खॉ के विरूद्ध संबंधित थाना में तुरन्त प्राथमिकी दर्ज करने का आदेश अवर प्रमण्डल पदाधिकारी, सोन नहर अवर प्रमण्डल, नौबतपुर को दिया गया है। साथ ही बिना अधोहस्ताक्षरी की अनुमति प्राप्त किये बिना अधिकृत लीज का अभिलेख (कार्यालय में उपलब्ध नहीं) के आधार पर दिनांक 03.01.11 को रेन्ट रसीद काटा गया तो उसी निर्गत की तिथि से रद्द किया जाता है।

ह/–
कार्यपालक अभियंता
सोन नहर प्रमण्डल, खगौल, पटना

12. A bare perusal of the said office orders makes it evident that Allegation No. 1 is not correct. It further transpires that whatever was alleged in the charge memo has simply been repeated and advanced in the disagreement memo. In light of the office order dated 04.10.2012 contained in Letter No. 2064 issued from the office of the Executive Engineer, Sone Canal Division, Khagaul, it is clear that the disagreement memo is unsustainable in law. The charges levelled in the charge memo have been reiterated in the disagreement memo, which is impermissible in law.

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13. Moreover, Rule 18(2) of the CCA Rules, 2005 mandates that any finding must be confined to the charges as framed in the charge memo and cannot be based on charges differently advanced in the disagreement memo. This Court is, therefore, of the considered view that the disciplinary authority acted illegally and issued the second show-cause notice in gross violation of Rule 18(2).

14. Accordingly, we conclude that the findings recorded by the learned Single Judge in paragraph 18 of the impugned order are fully in accordance with law and warrant no interference.

15. In result, the LPA stands dismissed.

(Dr. Anshuman, J)

Bibek Chaudhuri, J : I agree.

(Bibek Chaudhuri, J)

Ashwini/-

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