

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2605 of 2017

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Jyotindra Chouhan son of Late Surya Narayan Singh resident of Village - Mow North, P.S. - Bidyapati Nagar, District - Samastipur, at present posted at Anchal Office, Lalganj as Halka Karamchari, P.S. - Lalganj, District - Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur Bihar.
3. The Collector, Hajipur, Vaishali.
4. The Additional Collector, Hajipur, Vaishali.
5. The Deputy Development Commissioner, Hajipur, Vaishali.
6. The Land Reforms Deputy Collector, Hajipur, Vaishali.
7. The Block Development Officer, Raghapur, Vaishali at Hajipur.
8. The Circle Officer, Raghapur, Vaishali at Hajipur.
9. The Treasury Officer, Hajipur, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satyendra Narayan Verma, Advocate
For the State	:	Mr. Subhash Chandra Yadav (GP-15)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 27-03-2025 Heard Learned Counsel for the petitioner and Learned Counsel for the State.

2. The present writ petition has been filed for the following relief/s:-

“I. For setting aside the order dated 26.09.2015 issued vide Memo No.839 dated 28.09.2015 (annexed as Annexure-1) whereby and whereunder the petitioner has been punished arbitrarily by the respondent



Collector and his three increments with cumulative effect has been withheld.

II. For setting aside the order dated 23.08.2016 passed in Service Appeal No.159 of 2016 (annexed as Annexure-2) whereby and whereunder the respondent Commissioner has pleased to dismissed the same filed by the petitioner.

III. For any other relief/reliefs for which the petitioner is entitled for in the facts and circumstances of this case.”

3. Learned Counsel for the petitioner submits that the Disciplinary Authority has passed order on 26.09.2015 issued vide Memo No.839 dated 28.09.2015, by which the Appellate Authority has remanded the matter of the petitioner before the Disciplinary Authority to pass order afresh issuing second show-cause. Counsel submits that the petitioner has filed reply to the second show-cause which contains total 18 points (annexed as Annexure-9), but the Disciplinary Authority has not considered his reply to the second show-cause at all and passed one line order that in the second show-cause and its hearing, the petitioner has not produced sufficient material. Saying so, the order of punishment has again imposed. Counsel further submits that he has challenged the order before the Appellate Authority



in Service Appeal No. 159 of 2016 in which *vide* order dated 23.08.2016, his appeal has been rejected. Counsel submits that the Appellate Authority has not considered the points raised by the petitioner that there is no finding on the second show-cause and his reply to the second show-cause has not been considered at all. In this background, Counsel submits that the order passed by the Original Authority i.e. order dated 26.09.2015 issued *vide* Memo No.839 dated 28.09.2015 and order passed by the Appellate Authority *i.e.* order dated 23.08.2016 passed in Service Appeal No.159 of 2016, are bad in law.

4. Learned Counsel for the State on the other hand submits that there is no need of any interference in original order as well as in the appellate order, as the order of Disciplinary Authority has been passed after remand of the punishment order and entire matters are identical. Counsel submits that from the record, it transpires that second show-cause has been issued and its reply has been accepted and personal hearing has been provided to the petitioner, and therefore, the procedure has been duly followed and there is no need of any interference in this matter.

5. Upon hearing the parties, it transpires to this Court that the Appellate Authority has remanded this matter before the



Disciplinary Authority at the stage with direction to issue second show-cause, entertain the reply and grant opportunity of hearing. It also transpires to this Court that reply to the second show-cause has been submitted which is annexed as Annexure-9 in which defence has been taken point wise by the petitioner. From the record, it transpires that opportunity of hearing has also been provided to the petitioner. But, there is non-consideration of those points mentioned in Annexure-9 either by the Original Authority or by the Appellate Authority which is in gross violation of Rule 18(4) and 18(5) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'CCA Rules, 2005').

6. As such, this Court is of the firm view that in this proceeding, in original order as well as in the appellate order both, there are gross violation of the procedure laid down in CCA Rules, 2005 and hence, on this ground alone, order dated 26.09.2015 issued *vide* Memo No.839 dated 28.09.2015 (annexed as Annexure-1) and order dated 23.08.2016 passed in Service Appeal No.159 of 2016 (annexed as Annexure-2) are hereby set aside.

7. Matter is remanded back to the District Magistrate-cum-Collector, Vaishali (Respondent no.3) to pass order afresh



within 60 days from the date of production of this order. In case, order shall not be passed, then the petitioner shall be entitled to receive all the benefits for which he is entitled for.

8. Accordingly, this writ petition is hereby allowed.

(Dr. Anshuman, J)

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