

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18292 of 2023

=====

Sheelajeet Singh Son of Late Raj Narayan Singh, Resident of Village-
Bakhara, P.O.- Sikhari, P.S.- Dullahpur, District- Ghazipur, Uttar Pradesh,
PIN 275202.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Agriculture,
Government of Bihar, Patna- 800001.
2. The Secretary, Department of Agriculture, Government of Bihar, Patna-
800001.
3. Director cum-Additional Secretary, Department of Agriculture, Government
of Bihar, Patna- 800001.
4. The Special Secretary, Department of Agriculture, Government of Bihar,
Patna.
5. The Officer on Special Duty, Government of Bihar, Patna.
6. The Joint Secretary, Department of Agriculture, Government of Bihar, Patna.
7. The Under Secretary, Department of Agriculture, Government of Bihar,
Patna.
8. The Joint Director (Agronomy), Darbhanga Commissioner, Darbhanga.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Shekhar Singh, Sr. Adv. Mr. Sumit Kumar
For the Respondent/s	:	Mr. Vivek Prasad (GP 7)

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 25-09-2025 Heard the learned senior counsel for the petitioner
and learned counsel for the State.

2. The present writ petition is being preferred for
issuance of appropriate writ/order/direction for following
reliefs: -

*I. For quashing of the order contained
in memo no. 324 dated 18.07.2022 issued
under the signature of the Officer on Special
Duty of Department of Agriculture,
Government of Bihar, Patna whereby it has*



been ordered to make a recovery of Rs. 10,21,318/- (Ten lakh twenty-one thousand three hundred eighteen) from the petitioner and a warning has been issued to work with due diligence.

II. For quashing of the orders contained in letter no. 455 dated 10.11.2022 and letter 83 dated 03.02.2023 whereby the review applications submitted by the petitioner against the impugned order of recovery have been rejected in arbitrary and unreasonable manner.

III. For quashing of the order contained in memo no. 534 dated 10.10.2023 issued of Additional under the signature Secretary, Department of Agriculture, Government of Bihar, Patna whereby it has been ordered to make recovery of Rs. 10,21,318/- (Ten lakh twenty-one thousand three hundred eighteen) from the leave encashment of the petitioner and in case anything remains due then to recover /realise the same from the gratuity of the petitioner.

IV. For quashing of the show cause notice no. 65 dated 15.02.2021 and letter no. 951 dated 14.12.2020, issued under the signature of Joint Secretary, Department of Agriculture, Government of Bihar, Patna and letter no. 785 dated



07.09.2020 referred therein whereby the petitioner was asked to submit explanation with respect to the alleged irregularities mentioned therein in illegal and erroneous manner.

3. The brief facts of this case is that the petitioner was a member of Bihar Agricultural Services, Grade- 1 (Agronomy), Class-2, and at the relevant point of time, he was posted as District Agriculture Officer, Madhubani. During the said period of one year i.e. 14.07.2014 to 06.07.2015, the petitioner was posted as District Agriculture Officer, Madhubani. After about five years of his transfer, the petitioner was served a show cause notice bearing no. 951 dated 14.12.2020 issued under the signature of the Joint Secretary, Department of Agriculture, Government of Bihar, Patna whereby he was asked to submit an explanation with respect to the alleged irregularities mentioned in the said notice within a period of seven days. In the said notice, there was a reference made about one letter no. 785 dated 07.09.2020 in which also the petitioner was asked to submit his explanation but the letter no. 785 dated 07.09.2020 was never served upon the petitioner. From perusal of the said letter asking about the same explanation, it is evident that the matter relates to irregularities



caused in the supply of HDPE pipes in the year 2014-15 by the petitioner.

4. In reply of the letter dated 14.12.2020, the petitioner submitted his reply vide letter no. 644 dated 26.12.2020, requesting therein for supplying the petitioner with the relevant documents as mentioned in letter dated 7.9.2020 so that he may be able to submit an effective reply. The documents asked by the petitioner were supplied to him but on the contrary, again a reminder show cause notice contained in letter no. 65 dated 15.02.2021 was issued reiterating the contents of the earlier show cause notice.

5. Further, it is the case of the petitioner that show cause notices, asking the petitioner to submit his explanation, were issued after about five years of his posting at Madhubani and therefore, it was difficult for the petitioner to respond to the vague allegations of irregularities mentioned in the impugned show cause notices.

6. Subsequently, the petitioner, vide letter no. 196 dated 03.03.2021, again made a demand of all the relevant records and documents from the District Agriculture Officer, Madhubani and the petitioner has also request for the extension of time vide letter no. 197 dated 03.03.2021 to submit



explanation. Thereafter, the petitioner was supplied some of the documents, letters and bills, however the relevant letters and the verification report as well as some of the relevant documents were still not supplied to the petitioner which could have helped the petitioner in submitting an effective reply, however, in order to avoid any punitive action, the petitioner submitted his explanation through letter no. 455 dated 31.03.2021 through speed post but the authorities concerned, without considering the explanation and without recording any reasoning, passed the impugned order of punishment vide memo no. 324 dated 18.07.2022 issued under the signature of the Officer on Special Duty of Department of Agriculture, Government of Bihar, Patna whereby it has been ordered to make a recovery of Rs. 10,21,318/- (Ten lakh twenty-one thousand three hundred eighteen) from the petitioner and a warning has been issued to the petitioner to work with due diligence.

7. Upon being aggrieved by the said punishment, the petitioner submitted his review application vide letter no. 2806 dated 20.08.2022 for review of the punishment order awarding recovery of the Rs. 10,21,318/- but the review application of the petitioner has been rejected by the concerned respondent authorities vide order contained in letter no. 455



dated 10.11.2022 in quite arbitrary and mechanical manner without giving any cogent reason for the same merely on the ground that no new fact has been given by the petitioner in the review application and he was also served a letter bearing no. 467 dated 16.11.2022 asking for the manner in which the aforesaid amount shall be recovered from the petitioner.

8. Thereafter, the petitioner submitted another review application through the letter no. 2906 dated 15.12.2022 giving in details all the grounds demonstrating his innocence. However, the authorities, again rejected the application submitted by the petitioner and communicated the same vide letter no. 83 dated 03.02.2023.

9. Subsequently the petitioner has been again served a letter no. 207 dated 11.04.2023 whereby he has been asked to furnish the information regarding the mode of recovery of the amount but in the meanwhile the petitioner retired from the service on 31.05.2023 and vide letter contained in memo no. 534 dated 10.10.2023 issued by the Agriculture Department, Government of Bihar, it was communicated to the Accountant General Office, Bihar, Patna that a decision has been taken to recover Rs. 10,21,318/- from the leave encashment of the petitioner and in case the entire amount is not realised from it,



the remaining same shall be recovered from the gratuity amount of the petitioner.

10. It has been submitted by the learned Senior counsel for the petitioner that the impugned order of recovery has been issued in arbitrary and unreasonable manner without initiating a departmental proceedings as described under the provisions of Bihar Civil Services (Classification, Control and Appeal) Rules, 2005 and therefore, the order of recovery is not sustainable in the eye of law.

11. He further submits that the show cause notice contained in letter dated 14.12.2020 cannot be construed as a proper show cause notice as the same is punitive in nature and cannot be issued without initiating a departmental proceeding under Bihar Civil Services (Classification, Control and Appeal) Rules, 2005. Moreover, the irregularity has been alleged to be done by the petitioner on the basis of five random cases and there is no specific allegation and no proposed punitive action was mentioned in the show cause notice.

12. It is further submitted by the learned Senior counsel for the petitioner that the impugned order of recovery has been passed without considering the explanation of the petitioner by issuing a non-speaking and cogent unreasoned



order in which no reasons/grounds for not accepting the explanation of the petitioner are stated and such an order is not sustainable in the eye of law as it is in violation to the principles of natural justice and he also submits that the petitioner is a retired employee and recovery of such a huge amount would result in grave injustice to him and his family.

13. Learned Senior counsel for the petitioner, in support of his submissions, has relied upon judgments of the Hon'ble Supreme Court in the case of *Kranti Associates Private Limited & Anr. Vs. Masood Ahmed Khan & Ors.* reported as (2010) 9 SCC 496 and *Delhi Transport Corporation vs. Ashok Kumar Sharma* reported as 2024 SCC OnLine SC 1871.

14. Learned counsel for the State has opposed the application of the petitioner and has supported the impugned orders.

15. I have heard and considered the submissions of the parties and have gone through the records of the case.

16. The Hon'ble Supreme Court in the case of *Kranti Associates Private Limited* (supra) has summarized the principals and paragraph 47 of the aforesaid judgment reads as under:

“47. Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has



always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.



(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37].)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

17. Subsequently, the Hon’ble Supreme Court in the case of **Delhi Transport Corporation** (supra) has held as under:



“17. Furthermore, the agenda item which was circulated by the CMD for consideration of the Board (reproduced supra) clearly indicates that the Board was to take a decision in the matter while considering the facts of the case and the reply submitted by the charged officer in response to the show cause notice dated 15th April, 2009. However, other than giving a blind approval to the show cause notice and the agenda item albeit referring to the reply of the charged officer, the Board's Resolution dated 29th April, 2009 does not reflect any independent or objective application of mind by the members of the Board to the enquiry report either individually or collectively. In this regard, reference may be made to the judgment rendered by this Court in the case of A.L. Kalra v. Project & Equipment Corporation of India Ltd.¹ the relevant paragraph thereof is reproduced hereinbelow for the sake of ready reference:—

“29. The situation is further compounded by the fact that the disciplinary authority which is none other than Committee of Management of the Corporation while accepting the report of the inquiry officer which itself was defective did not assign any reasons for accepting the report of the inquiry officer. After reproducing the findings of the inquiry officer, it is stated that the Committee of Management agrees with the same. It is even difficult to make out how the Committee of Management agreed with the observations of the inquiry officer because at one stage while recapitulating the evidence the inquiry officer unmistakably observed that appellant was subjected to double punishment and at other place, it was observed that granting extension of time and acceptance of documents and balance advance would tantamount to extending the time which would make the affair look wholly innocuous. This shows utter non-application of mind of the Disciplinary Authority and the order is vitiated.”

18. By the impugned order dated 10.10.2023 the order for recovery of Rs. 10,21,318/- has been made and from



the recovery order, it appears that though, show-cause, which was asked for, has been filed but the same has not been considered by the respondents and the respondents have only reiterated the facts and allegations of the case and have failed to record specific reasons to arrive at a conclusion. It is settled that not providing reasons is antitheses to well reasoned and speaking orders.

19. In the impugned orders, no specific reason has been assigned by the respondent authorities for awarding the punishment to the petitioner and in the opinion of this Court, the authorities concerned ought to have passed the impugned punishment order only after recording the reasons, since from the reasons assigned in the impugned orders, it could have been inferred whether the authorities concerned have applied its mind in order to arrive at the conclusion in the form of punishment or not. The impugned orders is therefore cryptic and non-speaking orders and is no order in the eye of law. This kind of cryptic and non-speaking orders does not reflect any independent or objective application of mind by the respondent authorities and therefore, the same are bad in law and cannot be sustained.

20. In view of the law laid down by the Hon'ble Supreme Court and the fact that the impugned orders are bereft



of the reasons, the present writ petition stands allowed.

21. Accordingly, the order contained in memo no. 324 dated 18.07.2022; the orders contained in letter no. 455 dated 10.11.2022 and letter no. 83 dated 03.02.2023; the order contained in memo no. 534 dated 10.10.2023; the show cause notice no. 65 dated 15.02.2021, letter no. 951 dated 14.12.2020 and letter no. 785 dated 07.09.2020, are hereby quashed.

22. Since, the petitioner has retired from his service, he will be entitled to all consequential benefits.

23. However, the respondents are given liberty that they may proceed against the petitioner in the same subject in accordance with law.

(Sandeep Kumar, J)

Vikas/-

U			
---	--	--	--

