
(2008) 08 PAT CK 0140
In the Patna High Court
Case No : CWJC No. 1208 of 1995

Chaturvedi Srikant Sharma	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 29-08-2008

Acts Referred:

Citation : (2009) 1 PLJR 334

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Advocate : Anil Kumar Sinha, Amaresh Kumar Sinha and Mritunjay Kumar, for the Appellant; Vishwa Mohan Kumar Sinha and Pankaj Kumar Sinha, for the Respondent

Final Decision : Allowed

Judgement

S.A. Khan, J.—The petitioner being aggrieved with the order contained in Annexure-11 which is the order of punishment and the enquiry report on the basis of which the order of punishment has been passed contained in Annexure-12 dated 1.2.1995 has moved this Court for quashing the said Annexures. The petitioner was put under suspension which he challenged before this Court vide C.W.J.C. No. 2599 of 1994. In the said writ application the petitioner raised allegations of mala fide as well. This Court disposed of the writ application directing the District Indigenous Medical Officer, Saran, Chapra to serve a copy of the memo of charges to the petitioner within three weeks and to conclude the departmental proceeding after six weeks of filing of the show cause.

2. Learned counsel for the petitioner has raised several issues in this case. Firstly, it is submitted that the petitioner had filed an application before the Director, Health Services, Bihar, Patna vide Annexure-2 asking the Director to appoint an Enquiry Officer and the Presenting Officer as he apprehended that the District Indigenous Medical Officer would not be fair in conducting the enquiry. It appears from Annexure-13 that the Director in compliance of the order of this Court appointed the Civil Surgeon, Chapra as an Enquiry Officer and the

Incharge, District Indigenous Medicine Officer, Chapra as a Presenting Officer. The petitioner's counsel thereafter referred to Annexure-7 to show that although the Director had appointed an Enquiry Officer, the Civil Surgeon-cum-Chief Medical Officer, Saran had appointed Unani Medical Officer as an Enquiry Officer, The fact that an Enquiry Officer had been appointed by the Director, Indigenous Medicine was brought to the notice of the Unani Medical Officer and he waived aside the objection raised by the petitioner and has conducted the enquiry. On the basis of these facts it is alleged that the enquiry is without jurisdiction and it also reveals the mala fide manner in which the proceeding was conducted.

3. Learned counsel has secondly contended that the documents mentioned in the charge-sheet have not been supplied to him. In reply to the contentions raised on behalf of the petitioner it has been submitted on the behalf of the State that Annexures-1 and 5 would show that in fact the documents had been supplied to the petitioner. Annexure-5 reveals that certain documents were supplied to the petitioner which has been controverted by the counsel for the petitioner by referring to Annexure-6 series which shows that the petitioner had not been supplied with the documents which are mentioned in the charge-sheet. Annexure-1 to the counter affidavit of respondent No. 5 shows that thereafter the Enquiry Officer supplied some of the documents mentioned in the charge-sheet by the peon but in the margin of the said Annexure-1 it has been stated that the petitioner refused to accept the same.

4. This issue has led to a further issue as to whether the petitioner was actually served the documents or not as the petitioner has annexed a letter addressed by the peon to the Collector which specifically states that he had been forced to make endorsement on the receipts showing service of notice. All these facts and issues raised on behalf of the petitioner and the State are of such a nature that this Court cannot enter into them and decide this aspect of the matter as it is disputed by both the parties.

5. Finally, learned counsel for the petitioner submits that after the enquiry was concluded the petitioner was served with a show cause alongwith the alleged enquiry report.

6. The counsel for the State refers to letter No. 26? dated 24.1.1995 wherein the Incharge, District Indigenous Medical Officer has directed the petitioner to submit a show cause within a period of one week with respect to the enquiry report which has allegedly been supplied to the petitioner with this letter. It would be relevant to mention here that Annexure-12 the enquiry report is dated 1.2.1995. The said show cause had been issued on 24.1.1995 which actually shows that in fact on 24.1.1995 the enquiry report had not been prepared or was not ready or could also be interpreted by this Court, to mean that in fact no enquiry was ever conducted and a report was prepared on the table. Another aspect to this entire dispute is that the petitioner was given one week time to submit his show cause to the alleged enquiry report. The order of punishment has been passed on 1.2.1995, the same date on which the enquiry report was prepared and the

manner in which the entire proceedings have been conducted is not only strange but quite foreign to the concept of law in conducting disciplinary proceedings. Nobody can have faith in the manner in which the proceedings have been conducted much less this Court.

7. This Court thinks that it would serve no useful purpose to reopen the matter after 14 years unless the allegations are concerned with defalcation or some other serious charges. However, it would be open to the authorities to take a decision expeditiously in this regard. If in case the authority concerned thinks it essential to initiate a proceeding, he should complete the entire process within a period of 4 months.

8. In the result the order of punishment and the enquiry report contained in Annexures-11 and 12 respectively are quashed. The petitioner would be entitled to consequential benefits as a result of quashing of Annexures-11 & 12. The writ application is allowed with the aforesaid observations.