
(2003) 09 PAT CK 0003
In the Patna High Court
Case No : L.P.A. No. 806 of 2003

Jai Narayan Pd. Sah

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 04-09-2003

Acts Referred:

Citation : (2004) 1 PLJR 206

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Sudarshan Sharma, for the Appellant; Rajeshwari Prasad, for the Respondent

Judgement

1. The letters patent appeal has been filed against the order of 4 August, 2003 on CWJC No. 4127 of 2003: Jai Narayan Pd." Sah v. The State of Bihar and Ors.
2. The contention of the Appellant is that notwithstanding that the notice in which a departmental proceeding was to be taken out against him (31.1.1998) and a final order had been passed (6.7.1999) and thereafter an appellate order was passed (26.3.2003), all have been quashed and yet the success on his petition has given him no relief.
3. It is contended that the operative portion of the order aggrieves the Appellant as he is under an apprehension that notwithstanding a success in the petition he will again land up in the same situation as was before filing the petition.
4. What aggrieves the Appellant is reproduced below:

The Respondents, however, are given (a) liberty to proceed (b) further in the matter if they are still of the (c) opinion that (1) the findings recorded by the inquiry officer are incorrect or run contrary, to the records or (2) require reconsideration by the disciplinary authority provided (3) they issue a notice to the Petitioner along with (4) the tentative findings and (5) after hearing the Petitioner record their independent finding. The petition to the extent indicated

above and the liberty aforesaid is allowed

5. But, the court has only dissected the order so as to ensure its workability in future, if the occasion so arises.

6. It is true that the State has been left with freedom to reopen the file but it is not without conditions. The first three aspects will have to be taken in to account before (a) liberty is acted upon because thereafter (b) upon going further the State will have to form (c) an opinion. Once an opinion is formed then the State will (1) have to record findings that the inquiry officer was incorrect or ran contrary to the records and (2) the matter requires reconsideration by the disciplinary authority. Thereafter, the step (3) of a notice to the Petitioner. Then the step (5) that the Petitioner be heard and then the step (4) of findings being recorded. When these eight (8) factors are crossed then only the Petitioner-Appellant, perhaps, may see an action should anybody desire to take it.

7. The court cannot take a second opinion on the record which has been recorded.

8. Consigned.