
(2000) 12 PAT CK 0056
In the Patna High Court
Case No : L.P.A. No. 538 of 1998

The State of Bihar and Others

APPELLANT

Vs

Dr. Md. Wasimuddin

RESPONDENT

Date of Decision : 12-12-2000

Acts Referred:

Citation : (2001) 1 PLJR 271

Hon'ble Judges : Ravi S. Dhavan, C.J.;Aftab Alam, J

Bench : Division Bench

Advocate : S. Alamdar Husain, for the Appellant;

Final Decision : Allowed

Judgement

1. The State of Bihar has challenged the order of 20.2.1998 passed in C.W.J.C. No. 5599 of 1996. The petition had been filed challenging the order of dismissal of the Petitioner from service. At the time when the writ petition had been filed, the Petitioner was holding the post of District Animal Husbandry Officer.
2. Heard Mr. S. Alamdar Husain, S.C. VI for the Appellants. No one appears on behalf of the Respondent though he is represented by a lawyer whose name duly appears in the cause list.
3. From the order which is being impugned by this letters patent appeal, that is the order passed by the learned Judge on the writ petition, there appears to be more directions upon the Petitioner himself than on the State of Bihar. The entire perspective is better understood after this Court directed the State of Bihar to file an affidavit on what exactly was the misdemeanour indulged in by the Petitioner so as to invite an order of dismissal. The impugned order on the writ petition requires an enquiry by the department afresh and sets aside the order of dismissal. Now an affidavit has been filed and the Court has been enlightened that the Petitioner also is among the accused in the enquiries and investigations known as "the fodder scam". Further, upon charges having been framed and being the subject matter of criminal courts, the Petitioner is in custody. This

aspect is unconnected on what action the State of Bihar may take against the Petitioner administratively.

4. In the circumstances the Court finds that the direction which was given by the learned Judge on the Petitioner's writ petition that "the Petitioner must appear before Respondent No. 2 on or before 20th March, 1998" is not compatible with the grievance in the petition. This alone reflects on a situation that the Petitioner was being difficult with the department in the departmental proceedings and was simultaneously complaining to the High Court that he had been dismissed wrongly. Whatever administrative action had been brought upon the Petitioner, clearly, the Petitioner had invited it.

5. In the circumstances the Court has reservations on the order on the writ petition, dated 20.2.1998. Thus, this order is set aside.

6. In the result, the appeal of the State of Bihar is allowed with costs.