

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17336 of 2018

Narayan Das Sharma son of Late Kamla Prasad Sharma, resident of Mohalla Kadamkuan, P.S. Kadamkuan, District- Patna.

... .. Petitioner/s

Versus

1. The High Court Of Judicature At Patna Through Registrar General, High Court of Judicature at Patna
2. District and Sessions Judge, Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shiv Kumar, Advocate
Mr. Sahjanand Sharma, Advocate
For the Respondent/s : Mr. Piyush Lall, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 02-01-2023

Heard learned counsels for the respective parties.

2. In the instant petitioner, petitioner has prayed for the following relief/reliefs:

“That the present application is for issuance of writ in the nature of writ of certiorari for quashing the part of communication issued by Respondent no. 2 by which the confidential report of the petitioner is not given properly and in the part of order also the confidential report indicate the petitioner is not ready for higher/additional duties/responsibilities and this relates to the confidential report of the year 2014-2015 but the same is communicated to the



petitioner after more than two years and this also has been done without issuing any show cause and without hearing the petitioner on the point because there is contradiction between the controlling authority of the persons with whom petitioner is working and the communication is made to the petitioner without any basis at all and the petitioner is given punishment for further promotion which is not admissible under the law and thereafter the petitioner is deprived of promotion without any basis and further the appeal filed by the petitioner is also rejected by this Hon'ble Court without giving any reason for rejecting the appeal for representation filed by the petitioner and the order dated 18.12.2017 be also quashed accordingly and again one order is also passed by this Hon'ble Court on 9.3.2018 without any basis and without giving reason for rejecting the same and or pass such other order or orders as your Lordships may think fit and proper.”

3. Short question for consideration in the present petition is whether petitioner's representation against annual confidential report for the year 2014 has been considered while passing order with reference to each of the contentions stated in the representation or not? Firstly decision of the authority has been communicated to the petitioner through the District Judge in which merely stating that representation against adverse remarks for the year 2014 – 2015 has been rejected. In other words, reasons



assigned, if any, has not been made available by the rejecting authority.

4. Similarly, perusal of the counter affidavit filed on behalf of the first respondent, it is evident that (Paragraph 7) it is nothing but reiterating whatever the communication made through the District and Sessions Judge. In other words, *prima facie* there is no speaking order on the petitioner's representation. Accordingly, the petitioner has made out a case so as to interfere with the decision.

5. Recently Apex Court in the case of ***Ram Chander vs. State of Chattisgarh*** reported in **AIR 2022 SC 2017** held that mechanical reasons are not considered adequate. The principle laid down in the aforementioned judgement is aptly applicable to the case in hand. Moreover, rejection of representation against ACR is amenable to judicial review. Therefore, rejection of representation must be supported by material information or reasons. In other words, impugned actions are non-speaking. Hence, impugned actions of the respondents are set aside.

6. The concerned authority/competent authority is directed to decide the petitioner's representation afresh and pass speaking order after due consideration of each of the contentions stated in the representation against annual confidential report for



the years 2014 – 2015. Such decision shall be taken within a period of four months from the date of receipt of this order and communicate the decision to the petitioner at the earliest.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	06.01.2023.
Transmission Date	

