

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHAPRA

Service Appeal No. 229/2012

Ali Haidar

Vrs.

The State of Bihar through Collector, Gopalganj

ORDER

The instant appeal is directed against the impugned order passed by D.M., Gopalganj, as contained in memo No. 672/panchayat dated 15.06.2010 whereby and whereunder the appellant was inflicted with certain punishment.

The brief facts of the case are that the appellant Ali Haidar was, at the relevant times, posted as Panchayat Sachiv in Kateya block of the Gopalganj district. The further case is that a deptt. proceeding against the appellant was conducted for the following two charges. The first charge against the appellant was that he has to compare the BPL list personally by remaining present in the NIC building in the district headquarter but instead of doing so it has been alleged that he fled away with the said list. The second charge against the appellant was that he also remained absent in weekly meeting on 18.08.2007, 23.08.2007 and 06.09.2007. Thereafter, on the report submitted by the conducting officer, wherein the charges against the appellant were found true in the departmental proceeding, the D.M., Gopalganj acting as disciplinary authority inflicted the following punishment on the appellant and also stated that the said punishment is to be minor punishment of censure and withholding of three annual increments with non-cumulative effect vide memo No. 672/Panchayat dated 15.06.2010. Feeling aggrieved by the said punishment order, the appellant has preferred this appeal.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted that the impugned order is against the principle of natural justice. He further argued that even no inquiry was held against the appellant and without applying judicial mind the said order has been passed. He also submitted that the charges against the appellant was not true because the charge relating to non-submission of BPL list is incorrect as the BPL list was taken by the NIC official. The learned counsel also argued regarding second charge relating to absent from weekly meeting is concerned, that the same is also not correct as the appellant was actively engaged in the BPL work as he was directed by the BDO to finalize the list of BPL on priority basis. The learned counsel lastly submitted that the impugned order is arbitrary as the same has been passed without asking any second show cause from the appellant and hence the same be set aside.

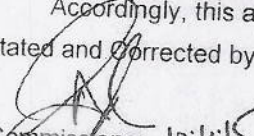
The learned G.P. appearing on behalf of the Collector, Gopalganj submitted that the appellant was in habit of disobeying the order of superiors and also kept himself absent from the weekly meeting. He further argued that as the punishment is of minor nature the punishment order is just and proper.

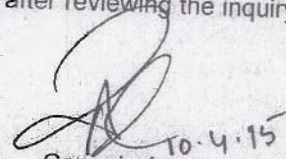
Considering the facts and circumstances of the case, material on record and on going through the impugned order, it seems that the impugned order has been passed in haste without considering all aspects of the matter and following the prescribed procedure of departmental proceeding as enumerated in Bihar CCA Rules 2005. It is obvious that the inquiry officer, although, exonerated the appellant from the charges levelled against him in the departmental inquiry then I find that the only option opens before the disciplinary authority either to accept, the said inquiry report and in case of any disagreements from the said report he has to disclose the reasons for his disagreements in the punishment order. Here it is seen that this settled principle has not been complied with by the disciplinary authority, and the impugned order has been passed in a mechanical manner.

Thus, for the aforesaid reason, the impugned order is not sustainable, hence, the same is set aside and the matter is remitted back to D.M., Gopalganj to pass a fresh order after reviewing the inquiry report submitted by the inquiry officer in accordance with law.

Accordingly, this appeal is disposed of.

Dictated and Corrected by me.


Commissioner, 10.4.15
Saran Division, Chapra


10.4.15
Commissioner,
Saran Division, Chapra

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHAPRA

B.L.D.R. Appeal No. 306/2012

Lal Bahadur Bhagat & Ors.

Vrs.

Nathuni Bhagat & Ors.

ORDER

The appeal is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 102/133/2011-12 on 04.08.2012

The brief facts of the case are that the dispute between the parties relates to 01 Katha 10 dhurki land appertaining to Khata No. 04 Khesera No. 722 situated in Mauza pachlakhi of Siwan district over which both parties are claiming their share on the basis of sale deed.

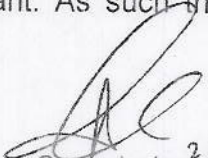
This case has been taken for argument on 20.03.2015. the appellant was conspicuously absent.

From the perusal of the order sheet, it is seen that this case was filed on 09.11.2012 and thereafter on 16.04.2013 when the case was taken up for admission the learned counsel for the appellant was absent and on all subsequent dates the appellant was either remained absent by filing time petition or absented himself on call, without any justified ground. On the other hand, the learned counsel for the O.P. insisted to dismissed the case in default for this attitude of the appellant and this court was pleased to grant last chance to the appellant vide order dated 22.09.2014. The appellant again remained absent on 05.01.2015 and 20.03.2015. This attitude of appellant categorically shows that the appellant has no genuine interest in pursuing his case.

In that view of the matter this court is also not inclined to prolong this case further for the lack of any interest from the appellant. As such this appeal is dismissed for default.

Dictated and Corrected by me.


Commissioner,
Saran Division, chapra


20.3.15
Commissioner,
Saran Division, Chapra

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHAPRA

B.L.D.R. Appeal No. 329/2012

Laxmina Devi
Vrs.
Banarasi Prasad & Ors.
ORDER

The instant appeal is directed against the impugned order passed by DCLR, Siwan Sadar in BLDR case No. 80/106/2012-13 on 14.09.2012.

The brief facts of the case are that the disputed piece of land measuring 16 dhur appertaining to Khata 816/2 Plot No. 2738/164 situated in Mauza Guthani of Siwan district. The claim of the respondent before DCLR was that the disputed land was came in his possession through gift and after that he constructed a house over that and later on rented the same to the present appellant and in T.S. No. 425/1990 order was passed in his favour dispute that the present appellant has forcefully occupied the same after breaking lock.

Heard the learned counsel for the parties and learned G.P. also.

Considering the facts the circumstances of the case, material available on the records and on going through the respective submissions advance by the learned counsel for the parties, it is seen that the dispute between the parties is mainly relates to right, title and interest over the disputed piece of land purported to have been acquired through sale deed. In view of the nature of dispute in the instant case, it can be safely assumed that this case was not maintainable before DCLR as per the provisions contained in the BLDR Act- 2009. However, the learned DCLR, did not bother to ascertain the maintainability of the case brought before him for adjudication by completely ignoring the relevant provisions of the BLDR Act. The subject matter of adjudication under the BLDR Act does not include setting aside or changing the records of rights, determination of complex issues involving title of the parties who are staking their claims on the disputed land in question. The Hon'ble High Court also in its recent judgment in **CWJC No. 1091/2013 (Maheshwar Mandal and others vrs The State of Bihar and others) on 24.06.2014** observed that the competent authority, the DCLR, is not empowered to entertain matter not arising out of the six enactments mentioned in schedule -1 of the BLDR Act- 2009 and also held that complex question of title can never be decided in a summary proceedings.

Thus, for the aforesaid reasons and keeping in view the recent observations made by the division bench of the Hon'ble High Court as quoted above, the impugned order of DCLR Siwan Sadar is not sustainable. Hence, the same is set aside and accordingly this appeal is disposed of.

Dictated and Corrected by me.


Commissioner,
Saran Division, chapra

 24.3.15
Commissioner,
Saran Division, Chapra