

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22189 of 2013

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Satyendra Kumar Son of Sri Braj Kishore Sharma Resident of Village- Bihta,
Police Station- Hulasganj in the District of Jehanabad

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna
2. The Principal Secretary, Department of Home, Government of Bihar, Patna
3. The Director General and Inspector General of Police, Bihar, Patna
4. The Deputy Inspector General, Central Range, Patna
5. The Superintendent of Police, Nalanda
6. The Inspector of Police, Giriak, Nalanda

.... Respondents

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Appearance:

For the Petitioner : Mr. Sunil Kumar, Advocate

For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-09-2017

The present writ petition has been filed for quashing the District Order No. 1093 of 2013 dated 05.08.2013 issued under the signature of the Superintendent of Police, Nalanda by which the petitioner has been removed from the post of SAP Constable without providing any opportunity of hearing and without giving any show cause notice; and to allow the petitioner to work as SAP Constable.

2. The short facts of the case according to the petitioner are that after having retired from the Indian Army from the post of Naik, he was appointed as Constable in SAP in June, 2006 and posted at Hajipur on contract basis. A few years later it appears that on



21.07.2013, the Inspector of Police, Giriak, Nalanda (respondent no. 6) inspected the Ayurvedic College, Pawapuri premises. Even though the petitioner was present there on duty, however, a wrong report was submitted by the respondent no. 6 that the petitioner was not present on 21.07.2013 during the inspection. On that basis the petitioner was removed from service in terms of Nalanda District Order No. 1093 of 2013 dated 05.08.2013 issued by the Superintendent of Police, Nalanda (respondent no. 5).

3. Learned counsel for the petitioner assails the impugned order of removal on the ground that neither a copy of the report of inspection nor any opportunity of hearing was ever provided to the petitioner prior to the impugned order of removal being issued.

4. None appears on behalf of the respondents despite repeated calls. A counter affidavit on behalf of the respondent nos. 5 and 6 has been filed, in paragraph- 9 of which it is admitted that no show cause notice for removal from service of the petitioner was given, there being no requirement in this regard in view of order dated 23.07.2013 issued by the Inspector General of Police, Bihar to the effect that all SP/DSP/Inspectors and SHO were authorized to make physical verification of SAP Constables and terminate their services immediately if they were found absent from duty.

5. Having heard learned counsel for the petitioner and having perused the counter affidavit filed on behalf of the respondents,



this Court is of the view that the principles of natural justice ought to have been observed by granting an opportunity of hearing to the petitioner prior to the order of removal having been passed against him. The order of the Inspector General of Police dated 23.07.2013 must not be read in a manner to frustrate the cause of justice. Nothing therein suggests that immediate termination of a SAP Constable in the event of his absence had to be effected without first granting an opportunity of hearing, and hence the requirement of natural justice is not excluded.

6. In the above view of the matter, the impugned order of removal dated 05.08.2013 (Annexure-1) is hereby set aside and the matter is remitted back to the Superintendent of Police, Nalanda (respondent no. 5) to pass orders afresh in accordance with law and after grant of opportunity of hearing to the petitioner.

7. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran/lbrar

AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.

