

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23721 of 2013

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Vinodanand Giri son of Late Hari Kant Giri, resident of Village - Kalyanpur, P.S.
Bibhutipur, District - Samastipur (Bihar)

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna
2. The Principal Secretary, Home Department, Government of Bihar, Patna
3. Director General of Police, Bihar, Patna
4. Inspector General of Police, Muzaffarpur Zone at Muzaffarpur (Bihar)
5. Deputy Inspector of Police, Tirhut Range at Muzaffarpur (Bihar)
6. Superintendent of Police, Vaishali at Hajipur (Bihar)
7. Conducting Officer-cum-Sub Divisional Police Officer, Sadar, Hajipur
(Bihar)

.... Respondents

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Appearance :

For the Petitioner : Mr. Y.V. Giri, Sr. Advocate.
Mr. Raju Giri, Advocate.

For the Respondents : Mr. Syed Iqbal Ahmad, SC-20
Mr. Mahtab Alam, AC to SC-20

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-09-2017

Heard learned senior counsel for the petitioner and
learned counsel for the respondents.

2. The present writ petition has been filed for the
following reliefs --

*(i) To issue an appropriate writ/order/direction in the
nature of certiorari for quashing the order dated
05.07.2007 passed by the respondent no. 7 by which in a
Departmental Proceeding No. 81 of 2006, he has found the
petitioner guilty of charges as contained in Annexure-6.*

*(ii) To issue an appropriate writ/order/direction in the
nature of certiorari for quashing the order dated 07.07.2010
passed by the respondent no. 5 as contained in Memo No.*



592 dated 07.07.2010 by which the petitioner has been dismissed from service as contained in Annexure-10.

(iii) To issue an appropriate writ/order/direction in the nature of certiorari for quashing the order dated 24.02.2012 passed by the respondent no. 4 as contained in Memo No. 584 dated 24.02.2012 by which Appeal preferred by the petitioner against the order dated 07.07.2010 passed by the respondent no. 6 has been rejected as contained in Annexure-12.

(iv) To further issue an appropriate writ/order/direction in the nature of certiorari for quashing the order dated 23.07.2012 passed by the respondent no. 3 as contained in Memo No. 3293 dated 25.07.2012 by which the Appeal Memorial filed by the petitioner has been rejected as contained in Annexure-14.

(v) To issue an appropriate writ/order/direction in the nature of mandamus commanding the respondents to reinstate the petitioner in service with effect from his date of dismissal i.e. 07.07.2010 with all consequential benefits.

3. The short facts of the case according to the petitioner are that he was appointed as Sub-Inspector of Police in the year 1984. He was posted as Officer-in-Charge, Jurawanpur Police Station in the District of Vaishali. He had instituted an F.I.R. being Jurawanpur P.S. Case No. 37 of 2006 on 18.05.2006 against the certain persons including one Satendra Singh, on whose complaint Vigilance Case No. 32 of 2006 had been instituted and which was found the sole basis for initiation of a departmental proceeding leading to the petitioner's



dismissal.

4. Without going into the detailed facts of the case, learned senior counsel for the petitioner at the very outset questions the validity of the departmental proceeding on the ground that no Presenting Officer was appointed for the purpose of the said proceeding. It is stated that the functions and duties of the Presenting Officer were also discharged by the Conducting Officer himself and thus the entire departmental proceeding stands vitiated. Reliance is placed on a decision of this Court in C.W.J.C. No. 15089 of 2016 (*Imteyaz Jhankar Vs. The State of Bihar and Ors.*) in support of such submission.

5. Learned counsel for the State has not been able to controvert the stand of the petitioner and is unable to show that in fact a Presenting Officer was appointed to conduct the proceedings on behalf of the Department.

6. Having heard the parties and on a consideration of the materials on record, this Court is of the view that the writ petition can be disposed of on this preliminary ground itself. This Court in *Imteyaz Jhankar's case (supra)* considered this aspect of the matter in considerable detail and took note of various judicial decisions, both of the Apex Court as well as of this Court, before concluding that the order of dismissal in such circumstances was rendered illegal and was accordingly quashed.



7. Having regard to the legal position, therefore, the writ petition stands allowed and the impugned orders are set aside with a direction to the respondents to reinstate the petitioner to his post of Sub-Inspector of Police as he held at the time of his termination dated 07.07.2010, with all consequential benefits.

8. It is made clear that the present judgment is being passed on this preliminary ground alone, without considering the merits of the other contentions and submissions of the petitioner.

9. It is further made clear that the respondents shall be at liberty to proceed afresh in the matter, if so advised, in accordance with law.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.09.2017
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