

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.345 of 2017**

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1. Ram Chandra Singh Son of Late Shiv Narayan Singh, Resident of Ramdiri, P.S.-  
Matihani, District- Begusarai, Bihar.

.... .... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Industries,  
Government of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar, Patna.
3. The Additional Secretary, Department of Industries, Government of Bihar, Patna.
4. The Under Secretary, Department of Industries, Government of Bihar, Vikash  
Bhawan, Patna.
5. Deputy Secretary, Department of Industries, Government of Bihar, Patna cum  
Conducting Officer.
6. The Section Officer, Section 6 (S) Cum presenting officer, Department of  
Industries, Government of Bihar, Vikash Bhawan, Patna.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar @ Manu, Adv.  
Mr. Surendra Kumar Singh, Adv.

For the Respondent/s : Mr. Abbas Haidar-SC6  
Mr. Shaiyed Hassan Majid, A.C. to S.C.6

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 17-03-2017**

Heard Mr. Sanjay Kumar @ Manu learned counsel for the  
petitioner and Mr. Syed Hussain Majeed learned A.C. to S.C.6 for the  
State.

With the consent of the parties the writ petition has been heard  
with the view to final disposal at the stage of admission.

The petitioner prays for issuance of a writ in the nature of  
certiorari for quashing the order bearing Memo No.1023 dated  
29.2.2016 whereby the petitioner has been removed from service



under Rule 14(10) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rules') as amended from time to time. The order of the State Government in its Industries Department is impugned at Annexure-11 to the writ petition.

Facts of the case briefly stated is that the petitioner while holding the post of a General Manager, District Industries Centre, Bhagalpur was served with the charge memo bearing No.57 dated 16.7.2014 inter alia containing allegations in respect of irregularities committed in execution of the Micro Small Enterprises Scheme (hereinafter referred to as 'the MSE Scheme'). As per the allegation, 19 applications filed under 'the MSE Scheme' for extending loan in respect of small enterprises were found to be an act of fraud and the charge memo while pin pointing allegations as against Rajiv Kumar Gupta and the Branch Manager of Madhya Bihar Gramin Bank, Oiyaw, Nalanda also ropes the petitioner for the processing of those applications in the capacity of the General Manager, District Industries Centre. A copy of the charge memo is impugned at Annexure-4.

The charge memo relies upon a report of the District Panchayat Raj Officer bearing No. 472 dated 7.4.2012 as well as the complaints



filed by the local villagers which finds enclosed with Annexure-4 at running page 29 and 35 respectively. It is following the charge memo that by a formal resolution of the State Government in its Industries Department bearing No.564 dated 6.2.2015, disciplinary proceedings were initiated against the petitioner under 'the Rules' and the Deputy Secretary, Industries Department was appointed as the Conducting Officer while the Section Officer was appointed as the Presenting Officer. The petitioner filed his reply contesting the allegations as lacking in foundation. The enquiry report was submitted vide Annexure-8 upholding the charges. The petitioner was served with the second show cause notice vide Annexure-9 and which was responded to by the petitioner vide Annexure-10 but rejecting the explanation advanced by the petitioner that the order of removal has been issued vide Annexure-11 and being aggrieved, he is before this Court.

Learned counsel for the petitioner has taken this court through the report of the District Panchayat Raj Officer which forms part of Annexure-4 and appears at running page 29 as well as the complaint of the villagers which forms the basis for the proceedings in question present at running page 35 to submit that sweepingly the District Panchayat Raj Officer has roped the petitioner for his alleged failure to enquire into the genuineness of the application. The complainants



on the other hand while charging the said Rajiv Kumar Gupta as well as the Branch Manager of the Madhya Bihar Gramin Bank of the exercise, do not whisper against the petitioner. Learned counsel has also referred to a report submitted by the successor General Manager in the office of the District Industries Centre to submit that the successor in office of the petitioner has very clearly mentioned that the signature occurring on the application forms required to be verified as to whether it is that of the petitioner or some other person. He submits that the successor in office has also stated that the 19 applications have not been processed from the office of the District Industries Centre.

Learned counsel for the petitioner has next referred to a letter of the petitioner present at Annexure-2 to submit that the foundation for involvement of the petitioner lies in the permission so sought by the petitioner for raising voice against the District Magistrate, Jehanabad. He refers to the order of removal impugned at Annexure-11 to submit that the disciplinary authority himself has accepted that though the signature of the Assistant and the Industry Extension Officer on the application forms, matches their signature but the signature of the General Manager is different. Meaning thereby, the disciplinary authority himself doubts the signature of the General Manager on the



application form.

The substance of argument of Mr. Sanjay Kumar @ Manu learned counsel for the petitioner is that charge as well as the conclusion rests on no evidence.

Mr. Majeed learned State counsel while supporting the impugned order has basically relied upon the role of the petitioner as the General Manager of the District Industries Centre to submit that it is only through the District Industries Centre that any of the applications needs to be processed and the moment 19 such applications have reached the Bank and money withdrawn for the purpose of loan which never reached the applicant, the petitioner cannot escape the responsibility. The argument of Mr. Majeed learned State counsel rests on the finding in the enquiry report and the allegations present in the charge memo.

I have heard learned counsel for the parties and I have perused the records.

The allegations are rather serious and definitely if the petitioner is a party to the same then there cannot be any let of on the conclusion drawn. The issue is whether there is any evidence to support the charge that the petitioner was a party to the scam.

I would be referring to each of the document which forms the



basis for the impugned order before I would be expressing my opinion on the issue because even if there is a slightest evidence available on the records of the proceeding to connect the petitioner to the charge, this Court would certainly refrain from entering into the issue of sufficiency of the evidence. The issue is whether at all there is any evidence to connect the petitioner with the charge because the foundation of the argument of Mr. Sanjay Kumar learned counsel for the petitioner is that the allegations rest on no evidence.

The charge memo is at Annexure-4 and specifically names one Rajiv Kumar Gupta as well as the Branch Manager, Madhya Bihar Gramin Bank, Oiyaw of hatching a conspiracy to obtain Bank loan in respect of 19 applicants which loan amount never reached the applicant(s). The allegations in so far as the petitioner is concerned is that the applications were not formatted nor any enquiry was conducted before the same was forwarded to the Bank. The Charge Memo as I have already indicated relies upon the report of the District Panchayat Raj Officer dated 7.4.2012 and the complaint of the local villagers.

The report of the District Panchayat Raj Officer, Nalanda dated 7.4.2012 which is the foundation for the charge is present at running page 29 of the writ proceedings and in so far as the petitioner is



concerned, the observation appears at running page 32. Rather surprisingly the report while charging the staff in clerical cadre along with the petitioner also admits that though the signature of the clerk is the same, there is discrepancy in the signature of the General Manager. The charge set up is of procedural lapse. Now the enquiry report of the District Panchayat Raj Officer does not point out any specific instance conforming the petitioner's involvement or that the signature on the form is that of the petitioner. The accusation is rather generalized with no specific instance supporting the collusiveness of the petitioner.

On the other hand the complaint of the local villagers is a part of Annexure-4 at running page 35 and which though specifically charges Rajiv Kumar Gupta of having obtained the signature of the villagers on the form and whereafter they all were taken to the Bank where the Bank Manager again took their signature but nowhere in the complaint made by the villagers is there any reference that these applicants came to the District Industries Centre for filing their application form or that the said Rajiv Kumar Gupta had obtained the signature/left thumb impression of the villagers on the application form in the District Industries Centre or that the petitioner had any role therein. In fact, there is no reference at all to the role of the



petitioner in the complaint of the local villagers. Such is the position in so far as the evidence available to support the charge against the petitioner, is concerned.

I would next refer to the report given by the successor in office of the petitioner and who has specifically stated that the 19 applications which forms the subject matter of the enquiry, were never issued by the District Industries Centre, Nalanda.

Last but not the least is the finding of the disciplinary authority himself in the order impugned where he accepts that though the signature of the Assistant and the Industries Extension Officers is the same in all the applications but the signature of the General Manager is different. It is rather surprising that even in absence of any definite evidence to connect the petitioner with the collusiveness of securing loan on the basis of forged documents, yet an extreme penalty has been imposed merely because of the status of the petitioner and the nature of the allegation. In my opinion, the disciplinary authority has got swayed by the nature of the accusation which accompanies the charge even in absence of any evidence connecting the petitioner with the charge. It is rightly argued by Mr. Sanjay Kumar @ Manu that the entire proceedings in so far as the petitioner is concerned, is resting on no evidence.



For the reasons discussed, the order of removal passed by the State Government in its Industries Department bearing Notification No.1034 dated 29.2.2016 cannot be upheld and is accordingly quashed and set aside.

It is stated at the bar that the petitioner has superannuated in the meanwhile.

In the circumstances the writ petition is allowed with all consequential benefits to which the petitioner is found entitled.

Bibhash/-

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**(Jyoti Saran, J)**

