

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14749 of 2010

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1. Uday Narayan Singh S/O Late Yugal Singh R/O Vill.- Narayanpur, P.S.-
Tarapur, In The District Of Munger

.... Petitioner/s

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 Inspector General, Prison, Bihar, Patna
4. The Director, Administration Home (Jail) Department, Bihar, Patna
5. The Jail Superintendent, Central Jail, Buxar
6. The Jail Superintendent, Central Jail, Siwan
7. The Jailor, District Jail, Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar

For the State : Mr. Lokesh Kumar Singh, A to AAG13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 26-03-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

In the present case, the petitioner is challenging the order
dated 2.3.2010 passed by the Disciplinary Authority and the same
has been affirmed by the Secretary Home, Patna (Appellate
Authority) dated 8.7.2010 whereby rejected the appeal of the
petitioner by which he has imposed punishment of stoppage of
four increments with cumulative effect and during the period of
suspension he will not be entitled to any salary except what has
been paid as subsistence allowances.



A raid was conducted on 3.8.2008 by District Administration, Siwan and during that raid in the jail premises 37 mobile and other contraband articles were recovered from different wards of the District Jail, Siwan. On the basis of the report of the District Administration, the Inspector General of Police Prison, Bihar, Patna started a proceeding against the petitioner and few others vide charge sheet dated 30th December, 2008. The petitioner submitted his detailed explanation by letter dated 13.1.2009(Annexure-8) but did not satisfy the Disciplinary Authority and thereafter a proceeding was initiated. A cryptic enquiry report was submitted which does not deal with merit of the case but in a capricious manner the report has been submitted and on that basis the order of punishment has been inflicted upon the petitioner and others.

Learned counsel for the petitioner submits that report itself depict the manner enquiry was conducted, is the basis of passing the order. The Enquiry Officer nowhere considered the defence of the petitioner and it also does not appear that any oral evidence was taken by the Enquiry Officer whereas learned counsel for the State has submitted that as huge quantity of banned articles were recovered from the jail premises and as such they were jointly held responsible and proper punishment has been inflicted.



With regard to same incident one Rang Bahadur Sharma has approached this case in C.W.J.C. 18300 of 2010 and this Court had arrived to a finding that enquiry report is completely cryptic and cyclostyle which has resulted in passing of impugned order, cannot be in any manner justified and quashed the order of the Disciplinary Authority and Appellate Authority.

On identical matter, identical charges were issued against the petitioner and identical punishment has been awarded as that of Rang Bahadur Sharma. From the record it reflects that enquiry report is completely per verse, not sustainable and not based on any material, suffers from patent illegality and looking to the order passed in the case of Rang Bahadur Sharma this Court finds favour with the petitioner and order of punishment dated 2.3.2010 and order of the Appellate Authority dated 8.7.2010 are quashed.

Accordingly this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
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