

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16307 of 2013

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SHAILESH KUMAR TIWARY S/O SHIVJEE TIWARY RESIDENT OF
VILLAGE KARMAIYA, P.S- MOFFASIL, DISTRICT- WEST
CHAMPARAN.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director General And Inspector General Of Office, Main Secretariat,
Patna.
3. The Deputy Inspector General, Kasi Range, Saharsa.
4. The Superintendent Of Police, Madhepura.
5. The Deputy Superintendent Of Police, Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Sr. Adv. Mr. Nawal Kishore Singh, Adv. Mr. Praveen Prakash, Adv.
For the Respondent/s	:	Mr. Anwaar Karim, AC to GP10

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 03-04-2018

I. A. No. 1712 of 2018

This interlocutory application has been filed for amendment of paragraph no. 1 of writ petition and for addition of four new sub-paragraphs as paragraphs C , D, E and F and further amendment of relief portion of the writ application adding “ by quashing the departmental proceeding no. 81/87”.

The amendment petition is allowed and shall form part of the main writ petition.



CWJC No. 16307 of 2013

The petitioner has filed this writ petition against the order of initiating departmental proceeding No. 23/2008 but during pendency of the writ petition the final order has been passed by the Disciplinary Authority and appeal preferred by petitioner has been rejected by the Appellate Authority, as contained in Annexure-7, passed by the Superintendent of Police, Madhepura dated 12.1.2014 by which petitioner has been imposed punishment of forfeiture of increments for two years.

Against said punishment petitioner had filed an appeal before the Appellate Authority and same has been dismissed by the Deputy Inspector General of Police, Koshi Division, Saharsa, by order dated 13.6.2012 which is contained as Annexure-A to the counter affidavit filed on behalf of respondents. In the order passed by the Appellate Authority it has been held that the proceeding against the petitioner was conducted by the Appellate Authority who was Superintendent of Police at the relevant time and Disciplinary Authority of petitioner and he has passed the order of punishment against the petitioner and subsequently after promotion he has assumed charge of DIG and has become the Appellate Authority and as such he is aware of the order passed by him as a Disciplinary Authority and he cannot review his own



order as an Appellate Authority and has dismissed the appeal against petitioner. The order dated 13.6.2012 passed by the DIG, the Appellate Authority, on appeal filed by petitioner is not sustainable in law as against his own order which was passed as an Disciplinary Authority he cannot hear appeal against the said order after having promoted and becoming Appellate Authority of petitioner.

As such, the order dated 13.6.2012 passed by the DIG, Koshi Division, Saharsa, is set aside and remanded to the Appellate Authority, DIG, Koshi Division, Saharsa, to hear the appeal filed by petitioner afresh and pass an appropriate and reasoned order on the appeal filed by petitioner within three months from the date of production/receipt of a copy of this order.

This writ application stands disposed of.

(S. Kumar, J)

sudip/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

