

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19709 of 2015**

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Uday Narayan Singh son of Late Deolal Singh, resident of Flat No. 302,  
Tribhuvan Mansion Apartments, Road No. 3E, New Patliputra Colony, P.O.-  
Patliputra, P.S.- Patliputra, District- Patna

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,  
Govt. of Bihar, Patna
2. The Appellate Authority-cum-Principal Secretary, Department of Home,  
Govt. of Bihar, Patna
3. The Additional Secretary-cum-Director Administration, Jail and Correctional  
Services Inspectorate, Department of Home, Government of Bihar, Patna
4. The Disciplinary Authority-cum-Inspector General, Jail and Correctional  
Services Inspectorate, Department of Home, Government of Bihar, Patna
5. The Superintendent-cum-conducting Officer, Model Central Jail, Beur, Patna

... .. Respondents

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**Appearance :**

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|----------------------|---|------------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Siya Ram Shahi, Advocate<br>Mr. Amaresh Kumar Sinha, Advocate                              |
| For the Respondent/s | : | Mr. S.K.Mandal, S.C.-3<br>Mr. Bipin Kumar, A.C. to S.C.-3<br>Smt. Neelam Kumar, A.C. to S.C.-3 |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL JUDGMENT**

**Date : 26-11-2018**

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

2. In this case, the petitioner is challenging the order  
containing memo no.5524 dated 21.10.2014 (Annexure-5),  
passed by the Inspector General, Jail and Reforms Services,



Bihar, Patna, whereby and whereunder he has inflicted two punishment upon the petitioner, namely, censure and stoppage of two increments with cumulative effect. Against that, the petitioner filed an appeal before the Principal Secretary, Home Department, Bihar, Patna, who vide order containing memo no.1509 dated 10.03.2015 (Annexure-8) rejected the same.

3. The petitioner, at the relevant time, was substantively holding the post of Assistant Superintendent. As the regular Jailer was not posted, the petitioner was holding the charge of Jailer at Divisional Jail, Hajipur, and he was discharging the duties and functions of Jailer. It has been stated that one Sunil Singh, an under trial prisoner, was illegally released on 31.10.2012 with the help of forged bail order, that led to initiation of departmental proceeding against the present petitioner and one Surendra Thakur, in-charge Clerk, as he was discharging the function of entry and exit of under trial prisoners in the jail.

4. As has been informed at the Bar that Sri Surendra Thakur, in-charge Clerk, having been dismissed from the service on the ground of being involved in illegal release of Sunil Singh on the basis of forged and fabricated bail order.



5. The petitioner was served with the charge-sheet through letter dated 10.03.2014 (Annexure-1), that comprises 10 charges. All are related to illegal release of Sunil Singh, an under trial prisoner. In charge no.1, it has been mentioned that on 31.10.2012 Sri Surendra Thakur, in-charge Clerk, informed the petitioner about the receipt of bail order of five under trial prisoners, out of that two under trial prisoners could be released. Whereafter, the Jailer gave an oral instruction that as it was an evening, both the under trial prisoners will be released on the next morning. However, on returning back inside the jail premises and on counting the under trial prisoners, he was found that Sri Surendra Thakur has released two under trial prisoners on the strength of bail order. Rest of the charges are connected with giving factual aspect of the matter that name of Sunil Singh was not there in the register received from the office of the Chief Judicial Magistrate and which led to inclusion of forged and fabricated documents.

6. The petitioner has given reply that on 31.10.2012 when he was informed by Sri Surendra Thakur that he has received the bail orders for release of five under trial prisoners and two persons could be released. Whereupon, he has given oral instruction, refusing to release them as evening has already taken



place, but even after his oral instructions, on arrival to the office from inside the jail premises, he found that Sri Surendra Thakur has illegally released two under trial prisoners and one bail order of Sunil Singh was found to be forged and fabricated. He has further taken plea that on 1.11.2012 i.e. on next morning, he informed this fact to the Superintendent of Jail and has recorded that the signature in the release order was found to be different from the admitted signature. At the same time, an F.I.R. was also lodged by the Superintendent of Jail against Sri Surendra Thakur.

7. The petitioner has participated in the proceeding, in the finding it has been recorded by the Inquiry Officer that the signature of the petitioner does not exist in connection with the release of Sunil Singh, and as such he cannot be said to be directly involved in the illegal release of Sunil Singh, but as he was in-charge of Divisional Jail, he failed to keep control over his junior employees or officers and he cannot save himself by shifting the responsibility upon in-charge Clerk, Sri Surendra Thakur. On perusal of the inquiry report, it appears that the Inquiry Officer has recorded the finding that even after the oral instruction of the petitioner to the in-charge Clerk, namely, Surendra Thakur, he has released Sunil Singh in the evening illegally and when he returned back inside the jail premises he



found the release of Sunil Singh, accordingly, on the next morning he informed this fact to the Superintendent of Jail and next action taken thereafter. The Disciplinary Authority only recorded a finding that he cannot absolve himself from the responsibility by shifting the same upon Sri Surendra Thakur as he has failed to keep control over his subordinates. On receipt of the second show-cause, the petitioner has reiterated the same defence, but the Disciplinary Authority has agreed with the finding of the Inquiry Officer and inflicted two punishments, namely, censure and stoppage of two increments with cumulative effect, the same has been affirmed by the Appellate Authority.

8. Learned counsel for the petitioner submits that the petitioner cannot be held responsible in any manner of illegal release of Sunil Singh when he has given affirmative oral direction, interjecting the release of that under trial prisoner and further submitted that for the act of others the petitioner cannot be said to be involved in any manner in the release of said Sunil Singh, inasmuch as, there is no charge in the charge-sheet with respect to failure to keep control over his subordinates but *de hors* to the charge the finding has been recorded and the Disciplinary Authority passed the order of punishment on that account.



**9.** In contra, learned counsel for the State submits that there is no illegality in inflictment of punishment upon the petitioner as he has failed to keep control over his junior employees or officers with respect to release of under trial prisoners in the evening on the basis of forged bail order and for that the punishment has been inflicted upon the petitioner.

**10.** Having considered the rival contentions of the parties, the finding has been recorded by the Inquiry Officer that the petitioner cannot be held responsible for illegal release of Sunil Singh as his signature is not standing in the register with respect to release of Sunil Singh and it has not been recorded that Sunil Singh was released when the petitioner was inside the jail premises even after oral instruction, Sri Surendra Thakur has released Sunil Singh. In such circumstance, the petitioner cannot be held responsible for illegal release of Sunil Singh as well as cannot be said to failure to keep control over his subordinates. Further, this Court has perused the charges, such charges are not there in the charge-sheet, but the same has have been found to be proved and the punishment has been inflicted upon to the petitioner.

**11.** This Court is of the view that the petitioner cannot be inflicted such punishment as the finding recorded by the



Inquiry Officer is perverse, not sustainable in any manner as he has been punished for the charges which are not mentioned in anywhere in the charge-sheet, inasmuch he was not involved in release of Sunil Singh, which is the direct charge levelled against him.

**12.** In such view of the matter, the order containing memo no.5524 dated 21.10.2014 (Annexure-5), passed by the Inspector General, Jail and Reforms Services, Bihar, Patna, as well as the order passed by the Appellate Authority containing memo no.1509 dated 10.03.2015 (Annexure-8) are quashed.

**13.** Accordingly, this writ petition is allowed.

**(Shivaji Pandey, J)**

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