

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12198 of 2014

1. Most. Sumitra Bari W/o late Lanka Bari
2. Budhan Ram Bari S/o Late lanka Bari
Both residing at Village Simbia Ichakuti PO Bara Guira PS Muffasil,
Chaibasa West Singhbhum Jharkhand- West Singhbhum, Jharkhand

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
3. Principal Secretary, Personal and Home Special Department Govt. of Bihar, Old Secretariat, Patna
4. Director General of Police, Old Secretariat, Patna
5. Additional Director General of Police, Old Secretariat, Patna
6. Assistant Inspector General of Police Inspection , Old Secretariat, Patna
7. Commandant, B.M.P. 14, Patna
8. Deputy Superintendent of Police, B.M.P. 14, Patna
9. Deputy Secretary of Finance, Old Secretariat, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Radha Mohan Pandey, Advocate Mr. Chandra Sheikhar Verma, Advocate
For the Respondent/s	:	Mr. AC to AAG 7

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 01-04-2019

I.A. No. 2 of 2019 has been filed in view of demise of the original petitioner on 02.02.2018 seeking substitution of legal heirs/representatives as petitioners in place of the original writ petitioner.

I.A. no. 2 of 2019 is allowed.

Let the names of legal heirs/representatives be substituted in place of the original writ petitioner.

The petitioner was proceeded against on some charges of



availing a loan for housing construction without due and proper utilization certificate on form 17. As a result of the proceedings he was awarded the punishment of withholding of increment for one year and grant of two black marks. The punishment was awarded on 08.04.2010. Petitioner suffered the said punishment and had not appealed against the same. The issue therefore, attained finality on 08.04.2010.

In purported exercise of power under Rule 853A(a) the DGP has revised the punishment and enhanced the same by issuing order terminating the petitioner from service on 29.05.2014. The same is based on the show cause on 17.02.2014. While exercising jurisdiction under Rule 853A(a) the petitioner raised an objection before the Director General that the scope of revision under Rule 853A(a) was required to be exercised within a reasonable time. Resort to the same after a long inordinate delay of more than three and half years in the instant case was not sustainable. Ignoring the said objection the DGP has directed dismissal of the petitioner on 28.05.2014 invoking powers under Rules 853A(a).

Counsel for the petitioner submits that law in this regard is settled. He refers to decision in the case of **Anjan Kumar Singh vs. State of Bihar** reported in **2001 (4) PLJR 177**



wherein exercise of jurisdiction under Rule 853A(a) suo motu and in absence of appeal by the IGP/DGP after an inordinate delay of three years has been found to be unreasonable and punishment has been set aside by this Court. The facts in the case of the petitioner are on a better footing. In the instant case the delay is of more than three years.

The respondents in the counter affidavit have taken a stand that Rule 853A(a) of the Bihar Police Manual does not stipulate any time frame and that the DGP has got power to review any punishment by calling upon a report within a reasonable time which is not objective but to the subjective satisfaction of the DGP. Stand of the respondents is in violation of the law laid down by this Court in the case of **Anjan Kumar Singh** (supra) it has clearly been held that the power under Rule 853A (a), if at all is to be exercised suo motu by the IGP/DGP, then the same should be done within a reasonable time from the date of final order in the departmental proceedings and that it cannot be resorted to after an inordinate delay of three years. The order of DGP dated 29.05.2014 is clearly unsustainable and is quashed.

The legal heirs of the petitioner would be entitled to the consequential benefits arising out of quashing of the order of



dismissal.

Writ petition stands allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

