

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 16729 of 2004

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Ganesh Singh, son of late Jag Narayan Singh, resident of Village – Mirjachak,
PO – Pahara, PS – Paraya, District - Gaya

... .. Petitioner/s

Versus

- 1 The State of Bihar through the Chief Secretary, Government of Bihar, Patna
- 2 The DG -cum- IG of Police, Bihar, Patna
- 3 The IG of Police, Patna Zone, Patna
- 4 The DIG of Police, Magadh Range, Gaya
- 5 The SP, Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Amaresh Kr Sinha, Anirudh Kr Verma, Advs
For the Respondent/s : Mr Ranjan Kumar, AC to GA XII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

10 12-07-2019 Heard learned counsel for the petitioner and the
respondent-State.

It is submitted by the petitioner's counsel that the petitioner was deprived of participating in the proceedings on account of his incarceration upon institution of Deo Police Station Case No 21 of 1998 which was lodged in respect of the same allegations for which the departmental proceedings were being conducted. Departmental proceedings commenced by service of charge memo on the petitioner on 24.04.1998. Actual proceedings started on 24.08.1998. Just three months thereafter, petitioner was put in incarceration where after he was released on 15.07.1999.



While he was in jail, the report of the Enquiry Officer was submitted on 29.03.1999. He submits that it is a gross case of not granting opportunity to participate in the proceedings.

Learned State Counsel, on the other hand, submits that since April 1998, petitioner was in know of the proceedings as charge memo was, admittedly, served on 24.04.1998. About three months thereafter, he had been put behind bar. There is no communication on his part to the Enquiry Officer for seeking any adjournment in the proceedings and that he has chosen to avail the opportunity. In the circumstance, he cannot be heard to contend that there has been a violation of the principles of natural justice.

Learned counsel for the petitioner submits that since the criminal proceeding as well as the departmental enquiry arising out of the charge memo dated 24.04.1998 was in respect of the same allegations and since the petitioner has been acquitted in the criminal trial arising out of said case, placing reliance on decision in the case of Captain M Paul Anthony -Versus- Bharat Gold Mines Limited & Others, (1999) 3 Supreme Court Cases 679, the petitioner would be approaching the Director General of Police (respondent No 2).

Since the order of punishment has been affirmed in



the Memorial by respondent No 2, the petitioner would approach respondent No 2 within four weeks from today drawing attention of the authorities towards the said judgment seeking relief in terms thereof including reconsideration of the quantum of punishment.

In view of the said submission, the writ petition is disposed of with liberty to the petitioner, as prayed for.

It is needless to record that respondent No 2 would be under an obligation to dispose of the claim as per law by a reasoned and speaking order expeditiously and without any undue delay.

(Madhuresh Prasad, J)

M.E.H./-

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