

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 10309 of 2014**

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Awdhesh Kumar Singh S/o Late Ram Kripal Singh, R/o Village-  
Raghunathpur, P.S.- Kudhni, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Patna Zone, Patna
4. The Deputy Inspector General of Police, Central Range, Patna
5. The Superintendent of Police, Nalanda
6. The Superintendent of Police, Railway, Muzaffarpur, Bihar

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr Jagannath Singh, Advocate  
For the Respondent/s : Mr Uday Shankar Sharan Singh, GP I

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**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**Date : 13-02-2019**

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

**2** Petitioner has prayed for quashing of the punishment  
of dismissal from service as Constable under the orders of the  
Director General of Police (for brevity, *DGP*), Bihar, Patna dated  
25.02.2014 contained in Memo No 756/L – 1 as also the  
consequential Nalanda District Order No 525/14 dated 10.03.2014.

**3** Learned counsel for the petitioner has submitted that  
the order enhancing the punishment is in purported exercise of  
power under Rule 853 (A) of the Bihar Police Manual. It is



submitted by the petitioner's counsel that since power has been exercised by the DGP under Rule 853 (A) of the Bihar Police Manual, the same could have been done only within a reasonable time. It is submitted that in the instant case, the order in the departmental proceeding is dated 30.07.2008. As such, it is submitted that since the DGP has issued the order of dismissal in purported exercise of power under Rule 853 (A) of Bihar Police Manual, after a lapse of about 7 years, the same is not sustainable.

4 Rule 853 (A) of the Bihar Police Manual does contemplate action to be taken within a reasonable time. However, in the instant case, this Court would find from the uncontroverted/undisputed averments made in the two counter affidavits filed on behalf of respondents No 5 and 6 that ever since the petitioner's first joining in the District Police Force, Purnea on 18.02.1985 till issuance of the order in the departmental proceeding on 30.07.2008, there are various instances of misconduct/misdemeanour of the petitioner. The petitioner has earlier been made accused in criminal cases also.

5 After having joined in 1985, he was dismissed on 16.05.1988 by the Superintendent of Police, Purnea on charges of being willfully absent from duty without information to the Authority concerned. While the departmental proceeding for the



said charge was running, he had knowingly and willfully joined afresh in the District Police Force, Sitamarhi on 24.11.1986, suppressing the fact of pendency of proceedings against him.

6 Petitioner was, thus, serving as Constable on the basis of two different joinings, the first one dated 18.02.1985 as Constable at Purnea having Brass No 390 and the second one as Constable on the basis of joining dated 24.11.1986 vide District Order No 2137 of 1986 at Sitamarhi as Constable No 732. Petitioner was, thus, holding two services as Constable in two different districts in between the periods 24.11.1986 to 16.05.1988.

7 Petitioner's joining in the District Police Force at Sitamarhi on 24.11.1986 was also by submitting false verification form suppressing the fact of his implication in Kudhni Police Station Case No 101 of 1985 which had already been lodged against the petitioner for offence punishable under Sections 302/201/34 of Indian Penal Code on 16.09.1985.

8 The said various instances of misconduct, highlighted by respondent-State in its counter affidavit, have not been denied or disputed by the petitioner by filing any rejoinder thereto.

9 For such misconduct, petitioner was proceeded against departmentally. Petitioner has filed one writ petition bearing *CWJC No 5780 of 2008* wherein he had challenged the



departmental proceedings. The said writ petition was also dismissed for non-prosecution.

**10** Clearly, conduct of the petitioner is unbecoming/unacceptable of a Constable. Having indulged in such indecorous conduct, petitioner, in the opinion of the Court, has rightly been given a higher punishment of dismissal. Petitioner's continuance in Police Service is undesirable, to say the least.

**11** In the instant case, petitioner has also indulged in suppression of relevant material facts. The entire development including filing of *CWJC No 5780 of 2008* has been suppressed by the petitioner. The entire issue had been challenged by the petitioner in *CWJC No 5780 of 2008*, which remained pending up till 23.01.2017. During pendency of the said writ petition, the order dated 10.03.2014, impugned in the instant writ petition, had been issued. Petitioner has not challenged the impugned order dated 25.02.2014 in *CWJC No 5780 of 2008*. In the proceedings arising out of *CWJC No 5780 of 2008*, the petitioner has not disclosed regarding filing of the instant writ petition in the year, 2014. In the instant proceedings also, the petitioner has not disclosed regarding filing of *CWJC No 5780 of 2008* and its dismissal for want of prosecution on 21.03.2017. Filing of *CWJC*



*No 5780 of 2008* and the purpose of filing the same were relevant factors to be disclosed in the instant proceedings so as to enable the Court to examine maintainability of the instant writ proceedings when the earlier writ petition (*CWJC No 5780 of 2008*) had stood dismissed for want of prosecution after the cause of action, on the basis of which the instant writ petition has been filed, had already come into existence in 2014 itself. There is a duty cast upon a litigant to disclose all material facts. He must come to the Court with clean hands and disclose all the material facts relating to his case. The same has not been done by the petitioner. Such conduct of the petitioner, in resorting to suppression of relevant and material facts and not coming to the Court with clean hands, disentitles him to any relief under the equitable writ jurisdiction of this Court under Article 226 of the Constitution of India.

**12** It is trite law that the jurisdiction of the Writ Court is an equitable jurisdiction. Suppression of relevant and material facts disentitles the petitioner to avail of the equitable remedy under Article 226 of the Constitution. The petitioner must approach the Writ Court with clean hands. In the instant case, this Court would find that the petitioner has not approached this Court with clean hands. The manner, in which the petitioner has



conducted himself, as is apparent from the uncontroverted/undisputed averments made in the counter affidavits, speaks volumes about the petitioner's misconduct.

**13** Suppression of the relevant material fact by the petitioner, as taken note herein above, disentitles the petitioner to avail of remedy under the equitable writ jurisdiction of this Court under Article 226 of the Constitution of India. In this connection, this Court would rely on the judgment of the Apex Court in the case of *Arunima Baruah -Versus- Union of India & Others*, reported in (2007) (6) Supreme Court Cases 120.

**14** This Court does not consider it appropriate to exercise jurisdiction in favour of the petitioner for the reasons taken note of herein above. The writ petition is dismissed.

**(Madhuresh Prasad, J)**

**M.E.H./-**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 15.02.2019 |
| Transmission Date | NA         |

