

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1220 of 2016

=====

Randhir Kumar Sinha Son of Late Parmanand Choudhary Resident of village
- Mozumabad, P.S. Bihpur, District - Bhagalpur

... .. Petitioner

Versus

1. The State of Bihar, through Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Home Affairs, Government of Bihar, Patna
3. The Under Secretary - Cum - Director, Administration Bihar, Patna
4. The Inspector of General Prison, Bihar, Patna
5. The Superintendent, Ideal Central Jail, Beuar, Patna
6. The Superintendent, Sub - Divisional Jail, Jhanjharpur, Distt. - Madhubani
7. The Superintendent, Divisional Jail, Jahanabad

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr.Sri Krishna Ranjan
		Mr. Vasant Vikas
For the Respondent/s	:	Ms. Prachi Pallavi, AC to AG

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 03-01-2019 Heard learned Counsel for the petitioner and the

learned counsel appearing for the respondent State.

The petitioner has been proceeded against under charge memo (Annexure 1) dated 29.6.2012 for certain allegations while he was posted as a Warden in the Sub Jail, Jhanjharpur. The allegations are in respect of three dates. It is alleged that on 17.2.2012 he misbehaved with Clerk Ashok Kumar during duty hours and showed arrogance with him. On 18.2.2012 it is alleged that when a surprise raid was made by the Superintendent he refused to cooperate in the same and caused obstruction in conducting the surprise raid. In the said



raid certain objectionable including mobile sets, sim, iron rods, mobile charger are said to have been recovered from the Cell in respect of which the petitioner was having responsibility being incharge of the same. On 20.2.2012 he was absent from his duty post. In the said circumstances on 22.2.2012 he has been placed under suspension. Charges were issued to him. He submitted his reply and after following the procedures prescribed under the Bihar CCA Rules proceedings were conducted against the petitioner.

The petitioner's Counsel raises an objection that the proceedings were not conducted in a fair manner as the Jail Superintendent, who had placed the petitioner under suspension on 22.2.2012, was appointed as the Presenting Officer in the proceedings conducted against the petitioner. He submits that this circumstance raises a reasonable likelihood of bias and that proceedings have not been conducted fairly and there is violation of principles of natural justice. It is also his submission that on 20.2.2012 the petitioner had abandoned his post after taking leave from the Senior Warden Shyam Lal Marandi but said Shyam Lal Marandi has not been examined by the authorities in the proceedings. Non-examination of Shyam Lal Marandi has occasioned grave prejudice to the petitioner's



defence and, as such, the order of punishment is unsustainable.

Counsel for the State, on the other hand, submits that guarantee of fairness in a departmental enquiry is guaranteed by the Enquiry Officer who performs the role of quasi judicial authority. The Presenting Officer is mainly performing the role of prosecutor and presenting the documents in support of the charge. Submission of the petitioner that the Presenting Officer was same as the one who had placed him under suspension, does not give any rise to reasonable likelihood of bias as no allegation of bias has been made against the Enquiry/Conducting Officer. In respect of the other submissions, it is submitted that during entire proceedings the petitioner has never raised any demand for examining the said Shyam Lal Marandi. In fact from the “minutes book”, examined in course of proceedings, it is apparent that the petitioner had abandoned his post without any permission from the said Shyam Lal Marandi. In the said circumstances this Court does not find any infirmity in the procedure adopted by the authorities.

It is trite law that it is the Conducting/Enquiry Officer, who performs the role of quasi judicial authority and, as such, he is required to be above any shadow of doubt. In so far as the Presenting Officer is concerned, there is no such requirement



that merely because he happens to be the same authority who placed the petitioner under suspension, he would be disqualified for being Presenting Officer.

The counter affidavit also specifies that he was the only available authority for performing the duties of the Presenting Officer in the jail in question. Apart from that, the petitioner's submission regarding non-examination of Shyam Lal Marandi is also unsustainable inasmuch as from the records the learned Counsel has not been able to show that on any occasion such a demand was made during course of enquiry.

Having considered the aforesaid submissions and in the light of the findings recorded hereinabove, this Court is not inclined to interfere with the punishment inflicted upon the petitioner.

The writ petition is dismissed.

(Madhuresh Prasad, J.)

SNkumar/-

U			
---	--	--	--

