

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18078 of 2019

=====

Dilip Kumar, Son of Late Maheshwari Prasad Yadav, resident of Village-
Jhokair, P.O.- Gelhiya, Via- Pipra Bazar, P.S.- Pipra Bazar, District- Supaul
(Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. Principal Secretary, Home Department, Government of Bihar, Patna.
3. Director General of Police, Government of Bihar, Patna.
4. Superintendent of Police, Naugachhia, District- Naugachhia (Bihar).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Raju Giri, Advocate
For the Respondent/s : Mr.Shailesh Kumar, AC to GP-5

=====

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

2 17-09-2019 Heard learned counsel for the parties.

2. Petitioner seeks quashing of the charge memo
issued by the Superintendent of Police, Naugachhia vide
order dated 23.07.2019, in a disciplinary proceeding, wherein
the petitioner, an Assistant Sub-Inspector of Police, has been
alleged to have consumed liquor.

3. Learned counsel appearing on behalf of the
petitioner submits that the findings of breath analyser tests
and FSL report are conflicting and, according to him, no
misconduct is made out on the basis of what has been alleged
in the charge memo.



4. He has relied on a Supreme Court's decision in case of *Union of India vs. Upendra Singh* reported in (1994) 3 SCC 357 to contend that since the allegations do not constitute any misconduct, the charge itself deserves to be set aside.

5. I have carefully seen the charge memo prepared in Prapatra 'ka' and the statement of imputation of misconduct, which has been brought on record by way of Annexure-4 to the writ application. There is allegation against the petitioner of having consumed Alcohol, which is an offence under Bihar Prohibition and Excise Act, 2016. A criminal case has also been lodged against the petitioner being Naugachhia P.S. Case No. 202 of 2019. The petitioner has been asked to respond to the charge memo and statement of imputation of misconduct.

6. If, according to the petitioner, the breath analyser test and FSL report do not support the allegation made in the charge memo, he may take such plea in his reply to the show cause notice/ charge memo issued to him. It goes without saying that if the petitioner files his response to the charge memo, in my view, it is statutory obligation of the disciplinary authority or the Inquiring Officer to consider the



reply and proceed further in accordance with the provisions under Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.

7. This writ application stands disposed of with the observations as noted above.

(Chakradhari Sharan Singh, J)

Rajesh/-

U			
---	--	--	--

